Practice Book Revisions
Being Considered by the
Rules Committee of the Superior Court

Rules of Professional Conduct
Superior Court Rules
Forms

Including Amendment Notes and
Commentaries to Proposals
April 23, 2019

NOTICE

Public Hearing on Practice Book Revisions Being Considered by the Rules Committee of the Superior Court

On May 13, 2019, at 10:00 a.m., the Rules Committee of the Superior Court will conduct a public hearing in the Supreme Court courtroom in Hartford for the purpose of receiving comments concerning Practice Book revisions that are being considered by the Committee. The revisions proposed by the Rules Committee follow this notice and are posted on the Judicial Branch website at http://www.jud.ct.gov/pb.htm.

Pursuant to subsection (c) of section 51-14 of the Connecticut General Statutes, the Supreme Court has designated the Rules Committee to conduct this public hearing also for the purpose of receiving comments on any proposed new rule or any change in an existing rule that any member of the public deems desirable.

Comments may be forwarded to the Rules Committee by email at Joseph.DelCiampo@jud.ct.gov or may be forwarded to the Rules Committee at the following address and should be received by May 9, 2019.

Rules Committee of the Superior Court
Attn: Joseph J. Del Ciampo, Counsel
P.O. Box 150474
Hartford, CT 06115-0474

Each speaker at the public hearing will be limited to five minutes. Anyone who believes that they cannot cover their remarks within that time period may submit written comments to the Rules Committee. If written comments are submitted, ten copies should be provided.

Wheelchair access is located in the rear of the Supreme Court building, accessible from the staff parking lot between Lafayette and Oak Streets. There are a limited number of handicap parking spots in the gated staff lot, which is accessible from Oak Street. Use the intercom at the gate to speak to security about the availability of parking. Once at the accessible door, use the intercom to request entry from security. If you would like to attend the meeting and need an accommodation under the Americans with Disabilities Act, please email the Rules Committee at Joseph.DelCiampo@jud.ct.gov before May 9, 2019.

Hon. Andrew J. McDonald
Chair, Rules Committee

INTRODUCTION

The following are amendments that are being considered to the Practice Book. These amendments are indicated by brackets for deletions and underlines for added language. The designation ''NEW'' is printed with the title of each proposed new rule and form.

Rules Committee of the
Superior Court

PROPOSED AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT

Rule 1.3. Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

COMMENTARY: A lawyer must pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf. A lawyer is not bound, however, to press for every advantage that might be realized for a client. For example, a lawyer may have authority to exercise professional discretion in determining the means by which a matter should be pursued. See Rule 1.2. The lawyer's duty to act with reasonable diligence does not require the use of offensive tactics or preclude the treating of all persons involved in the legal process with courtesy and respect.

A lawyer's work load must be controlled so that each matter can be handled competently.

Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthi-

ness. A lawyer's duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer's client.

Unless the relationship is terminated as provided in Rule 1.16, a lawyer should carry through to conclusion all matters undertaken for a client. If a lawyer's employment is limited to a specific matter, the relationship terminates when the matter has been resolved. If a lawyer has served a client over a substantial period in a variety of matters, the client sometimes may assume that the lawyer will continue to serve on a continuing basis unless the lawyer gives notice of withdrawal. Doubt about whether a client-lawyer relationship still exists should be clarified by the lawyer, preferably in writing, so that the client will not mistakenly suppose the lawyer is looking after the client's affairs when the lawyer has ceased to do so. For example, if a lawyer has handled a judicial or administrative proceeding that produced a result adverse to the client and the lawyer and the client have not agreed that the lawyer will handle the matter on appeal, the lawyer must consult with the client about the possibility of appeal before relinquishing responsibility for the matter. See Rule 1.4 (a) (2). Whether the lawyer is obligated to prosecute the appeal for the client depends on the scope of the representation the lawyer has agreed to provide to the client. See Rule 1.2.

To prevent neglect of client matters in the event of a sole practitioner's death or disability, the duty of diligence may require that each sole practitioner prepare a plan, in conformity with applicable rules, that designates another competent lawyer to review client files, notify

each client of the lawyer's death or disability, and determine whether there is a need for immediate protective action. Cf. Rule 28 of the American Bar Association Model Rules for Lawyer Disciplinary Enforcement (providing for court appointment of a lawyer to inventory files and take other protective action in absence of a plan providing for another lawyer to protect the interests of the clients of a deceased lawyer or **[**disabled**]** a lawyer with disabilities).

AMENDMENT NOTE: The revisions to the commentary conform it to the provisions of No. 17-202 of the 2017 Public Acts.

Rule 1.17. Sale of Law Practice

A lawyer or a law firm may sell or purchase a law practice, or an area of practice, including good will, if the following conditions are satisfied:

(a) The seller ceases to engage in the private practice of law, or in the area of practice that has been sold, in Connecticut;

(b) The entire practice, or the entire area of practice, is sold to one or more lawyers or law firms;

(c) The seller gives written notice to each of the seller's clients regarding:

(1) the proposed sale;

(2) the client's right to retain other counsel or to take possession of the file; and

(3) the fact that the client's consent to the transfer of the client's files will be presumed if the client does not take any action or does not otherwise object within ninety days of receipt of the notice. If a client cannot be given notice, the representation of that client may be

transferred to the purchaser only upon entry of an order so authorizing by a court having jurisdiction. The seller may disclose to the court in camera information relating to the representation only to the extent necessary to obtain an order authorizing the transfer of a file.

(d) The fees charged clients shall not be increased by reason of the sale.

COMMENTARY: The practice of law is a profession, not merely a business. Clients are not commodities that can be purchased and sold at will. Pursuant to this Rule, when a lawyer or an entire firm ceases to practice, or ceases to practice in an area of law, and other lawyers or firms take over the representation, the selling lawyer or firm may obtain compensation for the reasonable value of the practice as may withdrawing partners of law firms. See Rules 5.4 and 5.6.

Termination of Practice by the Seller. The requirement that all of the private practice, or all of an area of practice, be sold is satisfied if the seller in good faith makes the entire practice, or the area of practice, available for sale to the purchasers. The fact that a number of the seller's clients decide not to be represented by the purchasers but take their matters elsewhere, therefore, does not result in a violation.

The requirement that the seller cease to engage in the private practice of law does not prohibit employment as a lawyer on the staff of a public agency or a legal services entity that provides legal services to the poor, or as in-house counsel to a business.

The Rule permits a sale of an entire practice attendant upon retirement from the private practice of law within the jurisdiction. Its provisions, therefore, accommodate the lawyer who sells the practice upon

the occasion of moving to another state. Some states are so large that a move from one locale therein to another is tantamount to leaving the jurisdiction in which the lawyer has engaged in the practice of law. To also accommodate lawyers so situated, states may permit the sale of the practice when the lawyer leaves the geographic area rather than the jurisdiction. The alternative desired should be indicated by selecting one of the two provided for in Rule 1.17 (a).

This Rule also permits a lawyer or law firm to sell an area of practice. If an area of practice is sold and the lawyer remains in the active practice of law, the lawyer must cease accepting any matters in the area of practice that has been sold, either as counsel or co-counsel or by assuming joint responsibility for a matter in connection with the division of a fee with another lawyer as would otherwise be permitted by Rule 1.5 (e). For example, a lawyer with a substantial number of estate planning matters and a substantial number of probate administration cases may sell the estate planning portion of the practice but remain in the practice of law by concentrating on probate administration; however, that practitioner may not thereafter accept any estate planning matters. Although a lawyer who leaves a jurisdiction or geographical area typically would sell the entire practice, this Rule permits the lawyer to limit the sale to one or more areas of the practice, thereby preserving the lawyer's right to continue practice in the areas of the practice that were not sold.

Sale of Entire Practice or Entire Area of Practice. The Rule requires that the seller's entire practice, or an entire area of practice, be sold. The prohibition against sale of less than an entire practice

area protects those clients whose matters are less lucrative and who might find it difficult to secure other counsel if a sale could be limited to substantial fee-generating matters. The purchasers are required to undertake all client matters in the practice or practice area, subject to client consent. This requirement is satisfied, however, even if a purchaser is unable to undertake a particular client matter because of a conflict of interest.

Client Confidences, Consent and Notice. Negotiations between a seller and a prospective purchaser prior to disclosure of information relating to a specific representation of an identifiable client no more violate the confidentiality provisions of Rule 1.6 than do preliminary discussions concerning the possible association of another lawyer or mergers between firms, with respect to which client consent is not required. See Rule 1.6 (c) (5). Providing the purchaser access to detailed information relating to the representation, such as the client's file, however, requires client consent. The Rule provides that before such information can be disclosed by the seller to the purchaser the client must be given actual written notice of the contemplated sale, including the identity of the purchaser, and must be told that the decision to consent or make other arrangements must be made within ninety days. If nothing is heard from the client within that time, consent to the sale is presumed.

A lawyer or law firm ceasing to practice cannot be required to remain in practice because some clients cannot be given actual notice of the proposed purchase. Since these clients cannot themselves consent to the purchase or direct any other disposition of their files, the Rule

requires an order from a court having jurisdiction authorizing their transfer or other disposition. The court can be expected to determine whether reasonable efforts to locate the client have been exhausted, and whether the absent client's legitimate interests will be served by authorizing the transfer of the file so that the purchaser may continue the representation. Preservation of client confidences requires that the petition for a court order be considered in camera. This procedure is contemplated as an in camera review of privileged materials.

All the elements of client autonomy, including the client's absolute right to discharge a lawyer and transfer the representation to another, survive the sale of the practice or area of practice.

Fee Arrangements between Client and Purchaser. The sale may not be financed by increases in fees charged exclusively to the clients of the purchased practice. Existing agreements between the seller and the client as to fees and the scope of the work must be honored by the purchaser.

Other Applicable Ethical Standards. Lawyers participating in the sale of a law practice or a practice area are subject to the ethical standards applicable to involving another lawyer in the representation of a client. These include, for example, the seller's obligation to exercise competence in identifying a purchaser qualified to assume the practice and the purchaser's obligation to undertake the representation competently (see Rule 1.1); the obligation to avoid disqualifying conflicts, and to secure the client's informed consent for those conflicts that can be agreed to (see Rule 1.7 regarding conflicts and Rule 1.0

for the definition of informed consent); and the obligation to protect information relating to the representation (see Rules 1.6 and 1.9).

If approval of the substitution of the purchasing lawyer for the selling lawyer is required by the rules of any tribunal in which a matter is pending, such approval must be obtained before the matter can be included in the sale (see Rule 1.16).

Applicability of the Rule. This Rule applies to the sale of a law practice by representatives of a **[**deceased, disabled or disappeared**]** lawyer with disabilities or a lawyer who is deceased or has disappeared. Thus, the seller may be represented by a nonlawyer representative not subject to these Rules. Since, however, no lawyer may participate in a sale of a law practice which does not conform to the requirements of this Rule, the representatives of the seller as well as the purchasing lawyer can be expected to see to it that they are met.

Admission to or retirement from a law partnership or professional association, retirement plans and similar arrangements, and a sale of tangible assets of a law practice, do not constitute a sale or purchase governed by this Rule.

This Rule does not apply to the transfers of legal representation between lawyers when such transfers are unrelated to the sale of a practice or an area of practice.

AMENDMENT NOTE: The revisions to the commentary conform it to the provisions of No. 17-202 of the 2017 Public Acts.

Rule 5.4. Professional Independence of a Lawyer

(a) A lawyer or law firm shall not share legal fees with a nonlawyer, except that:

(1) An agreement by a lawyer with the lawyer's firm, partner, or associate may provide for the payment of money, over a reasonable period of time after the lawyer's death, to the lawyer's estate or to one or more specified persons;

(2) A lawyer who purchases the practice of a **[**deceased, disabled or disappeared**]** lawyer with disabilities or a lawyer who is deceased or has disappeared may, pursuant to the provisions of Rule 1.17, pay to the estate or other representative of that lawyer the agreed upon purchase price; and

(3) A lawyer or law firm may include nonlawyer employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement.

(4) A lawyer may share legal fees from a court award or settlement with a non-profit organization that employed, retained, or recommended employment of the lawyer in the matter.

(b) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.

(c) A lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.

(d) A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if:

(1) A nonlawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration;

(2) A nonlawyer is a corporate director or officer thereof or occupies the position of similar responsibility in any form of association other than a corporation; or

(3) A nonlawyer has the right to direct or control the professional judgment of a lawyer.

COMMENTARY: The provisions of this Rule express traditional limitations on sharing fees. These limitations are to protect the lawyer's professional independence of judgment. Where someone other than the client pays the lawyer's fee or salary, or recommends employment of the lawyer, that arrangement does not modify the lawyer's obligation to the client. As stated in subsection (c), such arrangements should not interfere with the lawyer's professional judgment.

This Rule also expresses traditional limitations on permitting a third party to direct or regulate the lawyer's professional judgment in rendering legal services to another. See also Rule 1.8 (f) (lawyer may accept compensation from a third party as long as there is no interference with the lawyer's independent professional judgment and the client gives informed consent).

AMENDMENT NOTE: The revisions to this rule conform it to the provisions of No. 17-202 of the 2017 Public Acts and adopt language similar to Rule 5.4 (a) (4) of the ABA Model Rules of Professional Conduct regarding the sharing of fees and includes language that makes it clear that the rule includes fees obtained through either a court award or settlement.

Rule 7.1. Communications Concerning a Lawyer's Services

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

COMMENTARY: This Rule governs all communications about a lawyer's services, including advertising **[**permitted by Rule 7.2**]**. Whatever means are used to make known a lawyer's services, statements about them must be truthful. **[**Statements, even if literally true, that are m**]**Misleading truthful statements are **[**also**]** prohibited by this Rule. A truthful statement is misleading if it omits a fact necessary to make the lawyer's communication considered as a whole not materially misleading. A truthful statement is **[**also**]** misleading if [there is] a substantial likelihood exists that it will lead a reasonable person to formulate a specific conclusion about the lawyer or the lawyer's services for which there is no reasonable factual foundation. A truthful statement also is misleading if presented in a way that leads a reasonable person to believe the lawyer's communication requires that person to take further action when, in fact, no action is required.

A**[**n advertisement**]** communication that truthfully reports a lawyer's achievements on behalf of clients or former clients may be misleading if presented without a disclaimer indicating that the communicated result is based upon the particular facts of that case so as to lead a reasonable person to form an unjustified expectation that the same results could be obtained for other clients in similar matters without

reference to the specific factual and legal circumstances of each client's case. Similarly, an unsubstantiated claim about a lawyer's or law firm's services or fees, or an unsubstantiated comparison of the lawyer's services or fees with **[**the services or fees**]** those of other lawyers or law firms may be misleading if presented with such specificity as would lead a reasonable person to conclude that the comparison or claim can be substantiated. The inclusion of an appropriate disclaimer or qualifying language may preclude a finding that a statement is likely to create unjustified expectations or otherwise mislead the public.

It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation. Rule 8.4 (3). See also Rule 8.4 (5) for the prohibition against stating or implying an ability to improperly influence **[**improperly**]** a government agency or official or to achieve results by means that violate the Rules of Professional Conduct.

Firm names, letterhead and professional designations are communications concerning a lawyer's services. A firm may be designated by the names of all or some of its current members, by the names of deceased or retired members where there has been a succession in the firm's identity or by a trade name if it is not false or misleading. A lawyer or law firm also may be designated by a distinctive website address, social media username or comparable professional designation that is not misleading. A law firm name or designation is misleading if it implies a connection with a government agency, with a deceased lawyer who was not a former member of the firm, with a lawyer not

associated with the firm or a predecessor firm, with a nonlawyer or with a public or charitable legal services organization. If a firm uses a trade name that includes a geographical name such as ''Springfield Legal Clinic,'' an express statement explaining that it is not a public legal aid organization may be required to avoid a misleading implication.

Letterhead identification of the lawyers in the office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction.

Lawyers may not imply or hold themselves out as practicing together in one firm when they are not a firm, as defined in Rule 1.0 (d), because to do so would be false and misleading.

It is misleading to use the name of a lawyer holding a public office in the name of a law firm, or in communications on the law firm's behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.

AMENDMENT NOTE: The purpose of the amendments to Rules 7.1–7.5 and to Section 2-28A is to incorporate the 2018 amendments to the American Bar Association's Model Rules of Professional Conduct concerning attorney advertising.

Rule 7.2. [Advertising]Communications Concerning a Lawyer's Services: Specific Rules

(a) **[**Subject to the requirements set forth in Rules 7.1 and 7.3, a**]**A lawyer may [advertise] communicate information regarding the

lawyer's services through [written, recorded or electronic communication, including public] any media.

(b) (1) A copy or recording of a[n advertisement or] communication regarding the lawyer's services shall be kept for three years after its last dissemination along with a record of when and where it was used. An electronic [advertisement or] communication regarding the lawyer's services shall be copied once every three months on a compact disc or similar technology and kept for three years after its last dissemination.

(2) A lawyer shall comply with the mandatory filing requirement of Practice Book Section 2-28A.

(c) A lawyer shall not compensate, give or promise anything of value to a person for recommending the lawyer's services, except that a lawyer may:

(1) pay the reasonable cost of advertisements or communications permitted by this Rule;

(2) pay the usual charges of a not-for-profit or qualified lawyer referral service[. A qualified lawyer referral service is a lawyer referral service that has been approved by an appropriate regulatory authority];

(3) pay for a law practice in accordance with Rule 1.17[.];

(4) refer clients to another lawyer or a nonlawyer professional pursuant to an agreement not otherwise prohibited under these Rules that provides for the other person to refer clients or customers to the lawyer, if:

(A) the reciprocal referral agreement is not exclusive; and

(B) the client is informed of the existence and nature of the agreement; and

(5) give a nominal gift as an expression of appreciation, provided that such a gift is neither intended nor reasonably expected to be a form of compensation for recommending a lawyer's services, and such gifts are limited to no more than two per year to any recipient.

(d) A lawyer shall not state or imply that a lawyer is certified as a specialist in a particular field of law, unless:

(1) the lawyer is currently certified as a specialist in that field of law by a board or other entity which is approved by the Rules Committee of the superior court of this state or by an organization accredited by the American Bar Association; and

(2) the name of the certifying organization is clearly identified in the communication.

[(d)**]**(e) Any **[**advertisement or**]** communication made **[**pursuant to**]** under this Rule **[**shall**]** must include the name and contact information of at least one lawyer admitted in Connecticut responsible for its content. In the case of television advertisements, the name, address and telephone number of the lawyer admitted in Connecticut shall be displayed in bold print for fifteen seconds or the duration of the commercial, whichever is less, and shall be prominent enough to be readable.

[(e) Advertisements on the electronic media such as television and radio may contain the same factual information and illustrations as permitted in advertisements in the print media.**]**

(f) Every **[**advertisement and written**]** communication that contains information about the lawyer's fee, including those indicating that the charging of a fee is contingent on outcome, or that no fee will be

charged in the absence of a recovery, or that the fee will be a percentage of the recovery, shall disclose whether and to what extent the client will be responsible for any court costs and expenses of litigation. The disclosure concerning court costs and expenses of litigation shall be in the same print size and type as the information regarding the lawyer's fee and, if broadcast, shall appear for the same duration as the information regarding the lawyer's fee. If the information regarding the fee is spoken, the disclosure concerning court costs and expenses of litigation shall also be spoken.

(g) A lawyer who **[**advertises**]** communicates a specific fee or range of fees for a particular service shall honor the **[**advertised**]** fee or range of fees described in the communication for at least ninety days unless the **[**advertisement**]** communication specifies a shorter period; provided that, for **[**advertisements**]** communications in the yellow pages of telephone directories or other media not published more frequently than annually, the **[**advertised**]** fee or range of fees described in the communication shall be honored for no less than one year following publication.

[(h) No lawyers shall directly or indirectly pay all or part of the cost of an advertisement by a lawyer not in the same firm unless the advertisement discloses the name and address of the nonadvertising lawyer, and whether the advertising lawyer may refer any case received through the advertisement to the nonadvertising lawyer.

(i) The following information in advertisements and written communications shall be presumed not to violate the provisions of Rule 7.1:

(1) Subject to the requirements of Rule 7.3, the name of the lawyer or law firm, a listing of lawyers associated with the firm, office addresses and telephone numbers, office and telephone service hours, fax numbers, website and e-mail addresses and domain names, and a designation such as ''attorney'' or ''law firm.''

(2) Date of admission to the Connecticut bar and any other bars and a listing of federal courts and jurisdictions where the lawyer is licensed to practice.

(3) Technical and professional licenses granted by the state or other recognized licensing authorities.

(4) Foreign language ability.

(5) Fields of law in which the lawyer practices or is designated, subject to the requirements of Rule 7.4, or is certified pursuant to Rule 7.4A.

(6) Prepaid or group legal service plans in which the lawyer participates.

(7) Acceptance of credit cards.

(8) Fee for initial consultation and fee schedule.

(9) A listing of the name and geographic location of a lawyer or law firm as a sponsor of a public service announcement or charitable, civic or community program or event.

(10) Nothing in this Rule prohibits a lawyer or law firm from permitting the inclusion in the law directories intended primarily for the use of the legal profession of such information as has traditionally been included in these publications.**]**

[(j)**]**(h) **[**Notwithstanding the provisions of subsection (d), a**]**A lawyer and service may participate in an internet based client to lawyer matching service, provided the service otherwise complies with the Rules of Professional Conduct. If the service provides an exclusive referral to a lawyer or law firm for a particular practice area in a particular geographical region, then the service must comply with subsection **[**(d)**]**(e).

COMMENTARY: **[**To assist the public in learning about and obtaining legal services, lawyers should be allowed to make known their services not only through reputation but also through organized information campaigns in the form of advertising. Advertising involves an active quest for clients, contrary to the tradition that a lawyer should not seek clientele. However, the public's need to know about legal services can be fulfilled in part through advertising. This need is particularly acute in the case of persons of moderate means who have not made extensive use of legal services. The interest in expanding public information about legal services ought to prevail over considerations of tradition. Nevertheless, advertising by lawyers entails the risk of practices that are misleading or overreaching.**]**

This Rule permits public dissemination of information concerning a lawyer or law firm's name **[**or firm name**]**, address, e-mail address, website, and telephone number; the kinds of services the lawyer will undertake; the basis on which the lawyer's fees are determined, including prices for specific services and payment and credit arrangements; whether and to what extent the client will be responsible for any court costs and expenses of litigation; lawyer's foreign language ability;

names of references and, with their consent, names of clients regularly represented; and other information that might invite the attention of those seeking legal assistance.

[Questions of effectiveness and taste in advertising are matters of speculation and subjective judgment. Some jurisdictions have had extensive prohibitions against television advertising and other forms of advertising, against advertising going beyond specified facts about a lawyer, or against ''undignified'' advertising. Television, the Internet, and other forms of electronic communication are now among the most powerful media for getting information to the public, particularly persons of low and moderate income; prohibiting television, Internet, and other forms of electronic advertising, therefore, would impede the flow of information about legal services to many sectors of the public. Limiting the information that may be advertised has a similar effect and assumes that the bar can accurately forecast the kind of information that the public would regard as relevant.

Neither this Rule nor Rule 7.3 prohibits communications authorized by law, such as notice to members of a class in class action litigation.**]**

Record of [Advertising] Communications. Subsection (b) requires that a record of the content and use of advertising be kept in order to facilitate enforcement of this Rule. It does not require that advertising be subject to review prior to dissemination. Such a requirement would be burdensome and expensive relative to its possible benefits, and may be of doubtful constitutionality.

Paying Others To Recommend a Lawyer. Except as permitted under subsection (c) (1) through (c) **[**(3)**]**(5), lawyers are not permitted

to pay others for recommending the lawyer's services **[**or for channeling professional work in a manner that violates Rule 7.3**]**. A communication contains a recommendation if it endorses or vouches for a lawyer's credentials, abilities, competence, character, or other professional qualities. Directory listings and group advertisements that list lawyers by practice area, without more, do not constitute impermissible ''recommendations.''

Subsection (c) (1)**[**, however,**]** allows a lawyer to pay for advertising and communications permitted by this Rule, including the costs of print directory list on-line directory listings, newspaper advertisements, television and radio airtime, domain name registrations, sponsorship fees, advertisements, Internet-based advertisements, and group advertising. A lawyer may compensate employees, agents and vendors who are engaged to provide marketing or client development services, such as publicists, public relations personnel, business development staff, television and radio employees or spokespersons, and website designers. See also Rule 5.3 (duties of lawyers and law firms with respect to the conduct of nonlawyers); Rule 8.4 (a) (duty to avoid violating the Rules through the acts of another).

Pursuant to subsection (c) (4), a lawyer also may agree to refer clients to another lawyer or a nonlawyer professional, in return for the undertaking of that person to refer clients or customers to the lawyer. Such reciprocal referral arrangements must not interfere with the lawyer's professional judgment as to making referrals or as to providing substantive legal services. See Rules 2.1 and 5.4 (c). Except as provided in Rule 1.5 (e), a lawyer who receives referrals from a lawyer

or nonlawyer professional must not pay anything solely for the referral, but the lawyer does not violate subsection (b) of this Rule by agreeing to refer clients to the other lawyer or nonlawyer professional, so long as the reciprocal referral agreement is not exclusive and the client is informed of the referral agreement. Conflicts of interest created by such arrangements are governed by Rule 1.7. Reciprocal referral agreements should not be of indefinite duration and should be reviewed periodically to determine whether they comply with these Rules. This Rule does not restrict referrals or divisions of revenues or net income among lawyers within firms comprised of multiple entities.

Subsection (c) (5) permits lawyers to give nominal gifts as an expression of appreciation to a person for recommending the lawyer's services or referring a prospective client. The gift may not be more than a token item as might be given for holidays, or other ordinary social hospitality. A gift is prohibited if the value of the gift is more than $50, or otherwise indicates a sharing of either legal fees or the ultimate recovery in the referred case, or if the gift is offered or given in consideration of any promise, agreement or understanding that such a gift would be forthcoming or that referrals would be made or encouraged in the future.

A lawyer may pay others for generating client leads, such as Internet-based client leads, as long as the lead generator does not recommend the lawyer, any payment to the lead generator is consistent with Rules 1.5 (e) (division of fees) and 5.4 (professional independence of the lawyer), and the lead generator's communications are consistent with Rule 7.1 (communications concerning a lawyer's services). To comply

with Rule 7.1, a lawyer must not pay a lead generator that states, implies, or creates a reasonable impression that it is recommending the lawyer, is making the referral without payment from the lawyer, or has analyzed a person's legal problems when determining which lawyer should receive the referral. See Comment above (definition of "recommendation"). See also Rule 5.3 (duties of lawyers and law firms with respect to the conduct of nonlawyers); Rule 8.4 (a) (duty to avoid violating the Rules through the acts of another).

A lawyer may pay the usual charges of a legal service plan or a not-for-profit or qualified lawyer referral service. A legal service plan is a prepaid or group legal service plan or a similar delivery system that assists people who seek to secure legal representation. A lawyer referral service, on the other hand, is any organization that holds itself out to the public as a lawyer referral service. Such referral services are understood by the public to be consumer oriented organizations that provide unbiased referrals to lawyers with appropriate experience in the subject matter of the representation and afford other client protections, such as complaint procedures or malpractice insurance requirements. Consequently, this Rule only permits a lawyer to pay the usual charges of a not-for-profit or qualified lawyer referral service. A qualified lawyer referral service is one that is approved by an appropriate regulatory authority as affording adequate protections for the public. See, e.g., the American Bar Association's Model Supreme Court Rules Governing Lawyer Referral Services and Model Lawyer Referral and Information Service Quality Assurance Act **[**(requiring that organizations that are identified as lawyer referral services: [i]

permit the participation of all lawyers who are licensed and eligible to practice in the jurisdiction and who meet reasonable objective eligibility requirements as may be established by the referral service for the protection of the public; [ii] require each participating lawyer to carry reasonably adequate malpractice insurance; [iii] act reasonably to assess client satisfaction and address client complaints; and [iv] do not make referrals to lawyers who own, operate or are employed by the referral service)**]**.

A lawyer who accepts assignments or referrals from a legal service plan or referrals from a lawyer referral service must act reasonably to assure that the activities of the plan or service are compatible with the lawyer's professional obligations. See Rule 5.3. Legal service plans and lawyer referral services may communicate with the public, but such communication must be in conformity with these Rules. Thus, advertising must not be false or misleading, as would be the case if the communications of a group advertising program or a group legal services plan would mislead the public to think that it was a lawyer referral service sponsored by a state agency or bar association. **[**Nor could the lawyer allow in person, telephonic, or real-time contacts that would violate Rule 7.3.**]**

Communications about Fields of Practice. Subsection (a) of this Rule permits a lawyer to communicate that the lawyer does or does not practice in particular areas of law. A lawyer is generally permitted to state that the lawyer ''concentrates in,'' ''focuses on,'' or that the practice is ''limited to'' particular fields of practice, but such communica-

tions are subject to the "false and misleading" standard applied in Rule 7.1 to communications concerning a lawyer's services.

The Patent and Trademark Office has a long-established policy of designating lawyers practicing before the Office. The designation of Admiralty practice also has a long historical tradition associated with maritime commerce and the federal courts. A lawyer's communications about these practice areas are not prohibited by this Rule.

This Rule permits a lawyer to state that the lawyer is certified as a specialist in a field of law if such the lawyer is currently certified as a specialist in that field of law by a board or other entity which is approved by the Rules Committee of the superior court of this state or by an organization accredited by the American Bar Association. Certification signifies that an objective entity has recognized an advanced degree of knowledge and experience in the specialty area greater than is suggested by general licensure to practice law. Certifying organizations may be expected to apply standards of experience, knowledge and proficiency to ensure that a lawyer's recognition as a specialist is meaningful and reliable. To ensure that consumers can obtain access to useful information about an organization granting certification, the name of the certifying organization must be included in any communication regarding the certification.

Required Contact Information. This Rule requires that any communication about a lawyer or law firm's services include the name of, and contact information for, the lawyer or law firm. Contact information includes a website address, a telephone number, an e-mail address or a physical office location.

AMENDMENT NOTE: The purpose of the amendments to Rules 7.1–7.5 and to Section 2-28A is to incorporate the 2018 amendments to the American Bar Association's Model Rules of Professional Conduct concerning attorney advertising.

Rule 7.3. Solicitation of Clients

(a) ''Solicitation'' or ''solicit'' denotes a communication initiated by or on behalf of a lawyer or law firm that is directed to a specific person the lawyer knows or reasonably should know needs legal services in a particular matter and that offers to provide, or reasonably can be understood as offering to provide, legal services for that matter.

[(a)**]**(b) A lawyer shall not **[**initiate personal,**]** solicit professional employment by live **[**telephone, or real-time electronic**]** person-to-person contact**[**, including telemarketing contact, for the purpose of obtaining professional employment, except in the following circumstances:**]** when a significant motive for the lawyer's doing so is the lawyer's or law firm's pecuniary gain unless the contact is:

(1) **[**If the target of the solicitation is a close friend, relative, former client or one whom the lawyer reasonably believes to be a client**]** With a lawyer or a person who has a family, close personal or prior business or professional relationship with the lawyer;

(2) Under the auspices of a public or charitable legal services organization;

(3) Under the auspices of a bona fide political, social, civic, fraternal, employee or trade organization whose purposes include but are not limited to providing or recommending legal services, if the legal services are related to the principal purposes of the organization;

(4) [If the target of the solicitation is] With a person who routinely uses for business purposes the type of legal services offered by the lawyer or with a business organization, a not-for-profit organization or governmental body and the lawyer seeks to provide services related to the organization.

[(b)](c) A lawyer shall not [contact or send a written or electronic communication to any person for the purpose of obtaining] solicit professional employment even when not otherwise prohibited by subsection (b) if:

(1) The lawyer knows or reasonably should know that the physical, emotional or mental state of the person makes it unlikely that the person would exercise reasonable judgment in employing a lawyer;

(2) [It has been] The target of the solicitation has made known to the lawyer [that the person does not want to receive such communications from] a desire not to be solicited by the lawyer;

(3) The [communication] solicitation involves coercion, duress, fraud, overreaching, harassment, intimidation or undue influence;

[(4) The written communication concerns a specific matter and the lawyer knows or reasonably should know that the person to whom the communication is directed is represented by a lawyer in the matter;] or

[(5)](4) The [written or electronic communication] solicitation concerns an action for personal injury or wrongful death or otherwise relates to an accident or disaster involving the person to whom the [communication] solicitation is addressed or a relative of that person, unless the accident or disaster occurred more than forty days prior to

the mailing of the [communication] solicitation, or the recipient is a person or entity within the scope of subsection (b) of this Rule.

(d) This Rule does not prohibit communications authorized by law or ordered by a court or other tribunal.

[(c)](e) Every written [communication] solicitation, as well as any [communication] solicitation by audio or video recording, or other electronic means, used by a lawyer for the purpose of obtaining professional employment from anyone known to be in need of legal services in a particular matter, must be clearly and prominently labeled ''Advertising Material'' in red ink on the first page of any written [communication] solicitation and the lower left corner of the outside envelope or container, if any, and at the beginning and ending of any [communication] solicitation by audio or video recording or other electronic means. If the written [communication] solicitation is in the form of a self-mailing brochure or pamphlet, the label ''Advertising Material'' in red ink shall appear on the address panel of the brochure or pamphlet. [Brochures] Communications solicited by clients or any other person, or if the recipient is a person or entity within the scope of subsection (b) of this Rule, the solicitation need not contain such marks. No reference shall be made in the [communication] solicitation to the [communication] solicitation having any kind of approval from the Connecticut bar. Such written [communications] solicitations shall be sent only by regular United States mail, not by registered mail or other forms of restricted delivery.

[(d) The first sentence of any written communication concerning a specific matter shall be: ''If you have already retained a lawyer for this matter, please disregard this letter.''

(e) A written communication seeking employment in a specific matter shall not reveal on the envelope, or on the outside of a self-mailing brochure or pamphlet, the nature of the legal matter.

(f) If a contract for representation is mailed with the communication, the top of each page of the contract shall be marked ''Sample'' in bold letters in red ink in a type size one size larger than the largest type used in the contract and the words ''Do Not Sign'' in bold letters shall appear on the client signature line.

(g) Written communications shall be on letter-sized paper rather than legal-sized paper and shall not be made to resemble legal pleadings or other legal documents. This provision does not preclude the mailing of brochures and pamphlets.

(h) If a lawyer other than the lawyer whose name or signature appears on the communication will actually handle the case or matter, or if the case or matter will be referred to another lawyer or law firm, any written communication concerning a specific matter shall include a statement so advising the target of the solicitation.**]**

[(i)**]**(f) Notwithstanding the prohibitions in **[**subsection (a)**]** this Rule, a lawyer may participate with a prepaid or group legal service plan operated by an organization not owned or directed by the lawyer which uses **[**in-person or telephone**]** live person-to-person contact to **[**solicit**]** enroll members**[**hips**]** or sell subscriptions for the plan from persons

who are not known to need legal services in a particular matter covered by the plan.

COMMENTARY: **[**A solicitation is a targeted communication initiated by the lawyer that is directed to a specific person and that offers to provide, or can reasonably be understood as offering to provide, legal services. In contrast, a**]** Subsection (b) prohibits a lawyer from soliciting professional employment by live person-to-person contact when a significant motive for the lawyer's doing so is the lawyer's or the law firm's pecuniary gain. A lawyer's communication **[**typically does not constitute**]** is not a solicitation if it is directed to the general public, such as through a billboard, an Internet banner advertisement, a website or a television commercial, or if it is in response to a request for information or is automatically generated in response to **[**Internet**]** electronic searches.

[Unrestricted solicitation involves definite social harms. Among these are harassment, overreaching, provocation of nuisance litigation and schemes for systematic fabrication of claims, all of which were experienced prior to adoption of restrictions on solicitation. Measures reasonably designed to suppress these harms are constitutionally legitimate. At the same time, measures going beyond realization of such objectives would appear to be invalid under relevant decisions of the United States Supreme Court.**]**

''Live person-to-person contact'' means in-person, face-to-face, live telephone and other real-time visual or auditory person-to-person communications where the person is subject to a direct personal encounter without time for reflection. Such person-to-person contact does not

include chat rooms, text messages or other written communications that recipients may easily disregard. A potential for overreaching exists when a lawyer, seeking pecuniary gain, solicits a person known to be in need of legal services. This form of contact subjects a person to the private importuning of the trained advocate in a direct interpersonal encounter. The person, who may already feel overwhelmed by the circumstances giving rise to the need for legal services, may find it difficult to fully evaluate all available alternatives with reasoned judgment and appropriate self-interest in the face of the lawyer's presence and insistence upon an immediate response. The situation is fraught with the possibility of undue influence, intimidation, and over-reaching.

The potential for **[**abuse**]** overreaching inherent in **[**direct in-person, live telephone or real time electronic solicitation**]** live person-to-person contact justifies **[**their**]** its prohibition, **[**particularly**]** since lawyers have alternative means of conveying necessary information **[**to those who may be in need of legal services**]**. In particular, communications can be mailed or transmitted by e-mail or other electronic means that **[**do not involve real time contact and**]** do not violate other laws **[**governing solicitations**]**. These forms of communications **[**and solicitations**]** make it possible for the public to be informed about the need for legal services, and about the qualifications of available lawyers and law firms, without subjecting the public to **[**direct in-person, telephone or real-time electronic**]** live person-to-person persuasion that may overwhelm a person's judgment.

[The use of general advertising and written, recorded and electronic communications to transmit information from lawyer to the public,

rather than direct in-person, live telephone, or real-time electronic contact, will help to ensure that the information flows cleanly as well as freely. The contents of advertisements and communications permitted under Rule 7.2 can be permanently recorded so that they cannot be disputed and may be shared with others who know the lawyer. This potential for informal review is itself likely to help guard against statements and claims that might constitute false and misleading communications, in violation of Rule 7.1**.]** The contents of **[**direct in-person, live telephone, or real-time electronic**]** live person-to-person contact can be disputed and **[**are**]** may not be subject to a third-party scrutiny. Consequently, they are much more likely to approach (and occasionally cross) the dividing line between accurate representations and those that are false and misleading.

There is far less likelihood that a lawyer would engage in **[**abusive practices**]** overreaching against a former client, or a person with whom the lawyer has a close personal, **[**or**]** family, business or professional relationship, or in situations in which the lawyer is motivated by considerations other than the lawyer's pecuniary gain. Nor is there a serious potential for **[**abuse**]** overreaching when the person contacted is a lawyer or is known to routinely use the type of legal services involved for business purposes. Examples include persons who routinely hire outside counsel to represent the entity; entrepreneurs who regularly engage business, employment law or intellectual property lawyers; small business proprietors who routinely hire lawyers for lease or contract issues; and other people who routinely retain lawyers for business transactions or formations. **[**Consequently, the general prohi-

bition in Rule 7.3 (a) and the requirements of Rule 7.3 (c) are not applicable in those situations. Also, nothing in this Commentary] Subsection (b) is not intended to prohibit a lawyer from participating in constitutionally protected activities of public or charitable legal service organizations or bona fide political, social, civic, fraternal, employee or trade organizations whose purposes include providing or recommending legal services to their members or beneficiaries.

[In determining whether a contact is permissible under Rule 7.3 (b), it is relevant to consider the time and circumstances under which the contact is initiated. For example, a person undergoing active medical treatment for traumatic injury is unlikely to be in an emotional state in which reasonable judgment about employing a lawyer can be exercised. Moreover, if after sending a letter or other communication to a member of the public as permitted by Rule 7.2 the lawyer receives no response, any further effort to communicate with the person may violate the provisions of Rule 7.3 (b).

The requirement in Rule 7.3 (c) that certain communications be marked ''Advertising Material'' does not apply to communications sent in response to requests of potential clients or their spokespersons or sponsors. General announcements by lawyers, including changes in personnel or office location, do not constitute communications soliciting professional employment from any person known to be in need of legal services within the meaning of this Rule.]

A solicitation that contains false or misleading information within the meaning of Rule 7.1, that involves coercion, duress or harassment within the meaning of Rule 7.3 (c) (2), or that involves contact with

someone who has made known to the lawyer a desire not to be solicited by the lawyer within the meaning of Rule 7.3 (c) (1) is prohibited. Live, person-to-person contact of individuals who may be especially vulnerable to coercion or duress is ordinarily not appropriate, for example, the elderly, those whose first language is not English, or the disabled.

This Rule **[**is**]** does not **[**intended to**]** prohibit a lawyer from contacting representatives of organizations or groups that may be interested in establishing a group or prepaid legal plan for their members, insureds, beneficiaries or other third parties for the purpose of informing such entities of the availability of and details concerning the plan or arrangement which the lawyer or lawyer's firm is willing to offer. This form of communication is not directed to people who are seeking legal services for themselves. Rather, it is usually addressed to an individual acting in a fiduciary capacity seeking a supplier of legal services for others who may, if they choose, become prospective clients of the lawyer. Under these circumstances, the activity which the lawyer undertakes in communicating with such representatives and the type of information transmitted to the individual are functionally similar to and serve the same purpose as advertising permitted under Rule 7.2. **[**Subsection (i) of this Rule would permit an attorney to participate with an organization which uses personal contact to solicit members for its group or prepaid legal service plan, provided that the personal contact is not undertaken by any lawyer who would be a provider of legal services through the plan.**]**

Communications authorized by law or ordered by a court or tribunal include a notice to potential members of a class in class action litigation.

Subsection **[**(i)**]**(f) of this Rule permits a lawyer to participate with an organization that uses personal contact to solicit members for its group or prepaid legal service plan, provided that the personal contact is not undertaken by any lawyer who would be a provider of legal services through the plan. The organization must not be owned by or directed (whether as manager or otherwise) by any lawyer or law firm that participates in the plan. For example, subsection **[**(i)**]**(f) would not permit a lawyer to create an organization controlled directly or indirectly by the lawyer and use the organization for the in-person or telephone solicitation of legal employment of the lawyer through memberships in the plan or otherwise. The communication permitted by these organizations also must not be directed to a person known to need legal services in a particular matter, but is to be designed to inform potential plan members generally of another means of affordable legal services. Lawyers who participate in a legal service plan must reasonably ensure that the plan sponsors are in compliance with Rules 7.1, 7.2 and 7.3 (b). **[**See 8.4(a).**]**

AMENDMENT NOTE: The purpose of the amendments to Rules 7.1–7.5 and to Section 2-28A is to incorporate the 2018 amendments to the American Bar Association's Model Rules of Professional Conduct concerning attorney advertising.

[Rule 7.4. Communication of Fields of Practice

(a) A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law.

(b) A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation ''Patent Attorney'' or a substantially similar designation.

(c) A lawyer engaged in admiralty practice may use the designation ''Admiralty,'' ''Proctor in Admiralty'' or a substantially similar designation.

(d) A lawyer shall not state or imply that the lawyer is a specialist in a particular field of law except as provided herein and in Rule 7.4A.

COMMENTARY: This Rule permits a lawyer to indicate fields of practice in communications about the lawyer's services. If a lawyer practices only in certain fields, or will not accept matters except in such fields, the lawyer is permitted so to indicate. A lawyer may indicate that the lawyer ''concentrates in,'' ''focuses on,'' or that the practice is ''limited to'' particular fields of practice as long as the statements are not false or misleading in violation of Rule 7.1. However, the lawyer may not use the terms ''specialist,'' ''certified,'' ''board-certified,'' ''expert'' or any similar variation, unless the lawyer has been certified in accordance with Rule 7.4A.

Recognition of specialization in patent matters is a matter of long-established policy of the Patent and Trademark Office. Designation of admiralty practice has a long historical tradition associated with maritime commerce and the federal courts.**]**

AMENDMENT NOTE: The purpose of the amendments to Rules 7.1–7.5 and to Section 2-28A is to incorporate the 2018 amendments to the American Bar Association's Model Rules of Professional Conduct concerning attorney advertising.

Rule 7.4A. Certification as Specialist

(a) **[**Except as provided in Rule 7.4, a**]** A lawyer shall not state or imply that he or she is a specialist in a field of law unless the lawyer is currently certified as a specialist in that field of law by a board or other entity which is approved by the Rules Committee of the Superior Court of this state or by an organization accredited by the American Bar Association. Among the criteria to be considered by the Rules Committee in determining upon application whether to approve a board or entity as an agency which may certify lawyers practicing in this state as being specialists, shall be the requirement that the board or entity certify specialists on the basis of published standards and procedures which (1) do not discriminate against any lawyer properly qualified for such certification, (2) provide a reasonable basis for the representation that lawyers so certified possess special competence, and (3) require redetermination of the special qualifications of certified specialists after a period of not more than five years.

(b) Upon certifying a lawyer practicing in this state as being a specialist, the board or entity that certified the lawyer shall notify the Statewide Grievance Committee of the name and juris number of the lawyer, the specialty field in which the lawyer was certified, the date of such certification and the date such certification expires.

(c) A lawyer shall not state that he or she is a certified specialist if the lawyer's certification has terminated, or if the statement is otherwise contrary to the terms of such certification.

(d) Certification as a specialist may not be attributed to a law firm.

(e) Lawyers may be certified as specialists in the following fields of law:

(1) *Administrative law*: The practice of law dealing with states, their political subdivisions, regional and metropolitan authorities and other public entities including, but not limited to, their rights and duties, financing, public housing and urban development, the rights of public employees, election law, school law, sovereign immunity, and constitutional law; practice before federal and state courts and governmental agencies.

(2) *Admiralty*: The practice of law dealing with all matters arising under the Carriage of Goods by Sea Act (COGSA), Harter Act, Jones Act, and federal and state maritime law including, but not limited to, the carriage of goods, collision and other maritime torts, general average, salvage, limitation of liability, ship financing, ship subsidies, the rights of injured sailors and longshoremen; practice before federal and state courts and governmental agencies (including the Federal Maritime Commission).

(3) *Antitrust*: The practice of law dealing with all matters arising under the Sherman Act, Clayton Act, Federal Trade Commission Act, Hart-Scott-Rodino Antitrust Improvements Act and state antitrust statutes including, but not limited to, restraints of trade, unfair competition, monopolization, price discrimination, restrictive practices; practice before federal and state courts and governmental agencies.

(4) *Appellate practice*: The practice of law dealing with all procedural and substantive aspects of civil and criminal matters before federal

and state appeals courts including, but not limited to, arguments and the submission of briefs.

(5) *Business bankruptcy*: The practice of law dealing with all aspects of the United States Bankruptcy Code when the debtor was engaged in business before the institution of a Chapter 7, 9, or 11 proceeding. This includes, but is not limited to, business liquidations, business reorganizations, and related adversary and contested proceedings.

(6) *Child welfare law*: The practice of law representing children, parents or the government in all child protection proceedings including emergency, temporary custody, adjudication, disposition, foster care, permanency planning, termination, guardianship, and adoption. Child welfare law does not include representation in private child custody and adoption disputes where the state is not a party.

(7) *Consumer bankruptcy*: The practice of law dealing with all aspects of the United States Bankruptcy Code when the debtor was not engaged in business before the institution of a Chapter 7, 12, or 13 proceeding. This includes, but is not limited to, liquidations, wage earner plans, family farmers and related adversary and contested proceedings.

(8) *Civil rights and discrimination*: The practice of law dealing with all matters arising under federal and state law relating to proper treatment in the areas of, among others, public accommodations, voting, employment, housing, administration of welfare and social security benefits; practice before federal and state courts and governmental agencies.

(9) *Civil trial practice*: The practice of law dealing with representation of parties before federal or state courts in all noncriminal matters.

(10) *Commercial transactions*: The practice of law dealing with all aspects of commercial paper, contracts, sales and financing, including, but not limited to, secured transactions.

(11) *Consumer claims and protection*: The practice of law dealing with all aspects of consumer transactions including, but not limited to, sales practices, credit transactions, secured transactions and warranties; all matters arising under the Equal Credit Opportunity Act, the Fair Credit Reporting Act, the Magnuson-Moss Act, the Truth in Lending Act, state statutes such as the ''Little FTC'' acts, and other analogous federal and state statutes.

(12) *Corporate and business organizations*: The practice of law dealing with all aspects of the formation, operation and dissolution of corporations, partnerships (general and limited), agency and other forms of business organizations.

(13) *Corporate finance and securities*: The practice of law dealing with all matters arising under the Securities Act of 1933, Securities Exchange Act of 1934, Investment Advisors Act (or the Federal Securities Code, if adopted) and other federal and state securities statutes; financing corporate activities; mergers and acquisitions; practice before the Securities and Exchange Commission and state securities commissions.

(14) *Criminal*: The practice of law dealing with the prosecution or representation of persons accused of crimes at all stages of criminal

proceedings in federal or state courts including, but not limited to, the protection of the accused's constitutional rights.

(15) *Elder law*: The practice of law involving the counseling and representation of older persons and their representatives relative to the legal aspects of health and long term care planning and financing; public benefits; alternative living arrangements and attendant residents' rights under state and federal law; special needs counseling; surrogate decision making; decision making capacity; conservatorships; conservation, disposition, and administration of the estates of older persons and the implementation of decisions of older persons and their representatives relative to the foregoing with due consideration to the applicable tax consequences of an action, involving, when appropriate, consultation and collaboration with professionals in related disciplines. Lawyers certified in elder law must be capable of recognizing issues that arise during counseling and representation of older persons or their representatives with respect to the following: Abuse, neglect or exploitation of older persons; estate, trust, and tax planning; other probate matters. Elder law specialists must be capable of recognizing the professional conduct and ethical issues that arise during representation.

(16) *Environmental*: The practice of law dealing with all aspects of the regulation of environmental quality by both federal and state governments; control of air pollution, water pollution, noise pollution, toxic substances, pesticides, and civilian uses of nuclear energy; solid waste/resource recovery; all matters arising under the National Environmental Policy Act, Clean Air Act, Federal Water Pollution Control

Act, Noise Control Act, Solid Waste Disposal Act, Toxic Substance Control Act and other federal and state environmental statutes; practice before federal and state courts and governmental agencies.

(17) *Estate planning and probate*: The practice of law dealing with all aspects of the analysis and planning for the conservation and disposition of estates, giving due consideration to the applicable tax consequences, both federal and state; the preparation of legal instruments in order to effectuate estate plans; administering estates, including tax related matters, both federal and state.

(18) *Family and matrimonial*: The practice of law dealing with all aspects of antenuptial and domestic relationships, separation and divorce, alimony and child support, distribution of assets, child custody matters and adoption, giving due consideration to the tax consequences, and court proceedings relating thereto.

(19) *Government contracts and claims*: The practice of law dealing with all aspects of the negotiation and administration of contracts with federal and state governmental agencies.

(20) *Immigration and naturalization*: The practice of law dealing with obtaining and retaining permission to enter and remain in the United States including, but not limited to, such matters as visas, change of status, deportation and naturalization; representation of aliens before courts and governmental agencies; protection of aliens' constitutional rights.

(21) *International*: The practice of law dealing with all aspects of the relations among states, international business transactions, inter-

national taxation, customs and trade law and foreign and comparative law.

(22) *Labor*: The practice of law dealing with all aspects of employment relations (public and private) including, but not limited to, unfair labor practices, collective bargaining, contract administration, the rights of individual employees and union members, employment discrimination; all matters arising under the National Labor Relations Act (Wagner Act), Labor Management Relations Act (Taft-Hartley Act), Labor Management Reporting and Disclosure Act (Landrum-Griffin Act), Fair Labor Standards Act, Title VII of The Civil Rights Act of 1964, Occupational Safety and Health Act (OSHA), Employee Retirement Income Security Act (ERISA), other federal statutes and analogous state statutes; practice before the National Labor Relations Board, analogous state boards, federal and state courts, and arbitrators.

(23) *Military*: The practice of law dealing with the presentation of parties before courts-martial and other military tribunals in disputes arising under the Uniform Code of Military Justice; the representation of veterans and their dependents in seeking government benefits due to them on account of military service; handling civil law problems of the military.

(24) *Natural resources*: The practice of law dealing with all aspects of the regulation of natural resources such as coal, oil, gas, minerals, water and public lands; the rights and responsibilities relating to the ownership and exploitation of such natural resources.

(25) *Patent, trademark and copyright*: The practice of law dealing with all aspects of the registration, protection and licensing of patents,

trademarks or copyrights; practice before federal and state courts in actions for infringement and other actions; the prosecution of applications before the United States Patent and Trademark Office; counseling with regard to the law of unfair competition as it relates to patents, trademarks and copyrights.

(26) (A) *Residential real estate*: The practice of law dealing with all aspects of real property transactions involving single one-to-four family residential dwellings when the client uses such dwelling or expresses in writing the intent to use such dwelling as the client's primary or other residence including, but not limited to, real estate conveyances, title searches and property transfers, leases, condominiums, cooperatives, and other common interest communities, planned unit developments, mortgages, condemnation and eminent domain, zoning and land use planning, property taxes, and determination of property rights.

(B) *Commercial real estate*: The practice of law dealing with all aspects of real property transactions except for residential real estate as defined in subparagraph (A) of this subdivision, including, but not limited to, real estate conveyances, title searches and property transfers, leases, condominiums, cooperatives and other common interest communities, planned unit developments, mortgages, condemnation and eminent domain, zoning and land use planning, property taxes, real estate development and financing (with due consideration to tax and securities consequences) and determination of property rights.

(27) *Taxation*: The practice of law dealing with all matters arising under the Internal Revenue Code, Employee Retirement Income Security Act (ERISA), state and local tax laws and foreign tax laws, including

counseling with respect thereto; practice before federal and state courts and governmental agencies.

(28) *Workers' compensation*: The practice of law dealing with the representation of parties before federal and state agencies, boards and courts in actions to determine eligibility for workers' compensation, and disability.

AMENDMENT NOTE: The purpose of the amendments to Rules 7.1–7.5 and to Section 2-28A is to incorporate the 2018 amendments to the American Bar Association's Model Rules of Professional Conduct concerning attorney advertising.

Rule 7.4C. Application by Board or Entity to Certify Lawyers as Specialists

Any board or entity seeking the approval of the Rules Committee of the superior court for authority to certify lawyers practicing in this state as being specialists in a certain field or fields of law as set forth in Rule 7.4A (e), shall file **[**an original and six copies of**]** its application with the Legal Specialization Screening Committee pursuant to Rule 7.48 on form JD-ES-63. The application materials shall be filed in a format prescribed by the Legal Specialization Screening Committee, which may require them to be filed electronically.

AMENDMENT NOTE: The amendment to this rule removes an inconsistency between the language of the first and second sentences of this rule, and clarifies that the Legal Specialization Screening Committee will prescribe the format of the application submission, rather than to have the rule require the application to be filed in multiple hard copies. This amendment is also consistent with the Regulations of the

Legal Specialization Screening Committee, which were updated in January, 2016 to require that applicants file one hard copy and one electronic copy of their applications.

[Rule 7.5. Firm Names and Letterheads

(a) A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1.

(b) A law firm with offices in more than one jurisdiction may use the same name in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

(c) The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.

(d) Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact.

COMMENTARY: A firm may be designated by the names of all or some of its members, by the names of deceased members where there has been a continuing succession in the firm's identity or by a trade name such as the ''ABC Legal Clinic.'' Although the United States Supreme Court has held that legislation may prohibit the use of trade names in professional practice, use of such names in law practice is acceptable so long as it is not misleading. If a private firm uses a

trade name that includes a geographical name such as ''Springfield Legal Clinic,'' an express disclaimer that it is a public legal aid agency may be required to avoid a misleading implication. It may be observed that any firm name including the name of a deceased partner is, strictly speaking, a trade name. The use of such names to designate law firms has proven a useful means of identification. However, it is misleading to use the name of a lawyer not associated with the firm or a predecessor of the firm.

With regard to subsection (d), lawyers sharing office facilities, but who are not in fact partners, may not denominate themselves as, for example, ''Smith and Jones,'' for that title suggests partnership in the practice of law.**]**

AMENDMENT NOTE: The purpose of the amendments to Rules 7.1–7.5 and to Section 2-28A is to incorporate the 2018 amendments to the American Bar Association's Model Rules of Professional Conduct concerning attorney advertising.

PROPOSED AMENDMENTS TO THE GENERAL PROVISIONS OF THE SUPERIOR COURT RULES

Sec. 2-27A. Minimum Continuing Legal Education

(a) On an annual basis, each attorney admitted in Connecticut shall certify, on the registration form required by Section 2-27 (d), that the attorney has completed in the last calendar year no less than twelve credit hours of appropriate continuing legal education, at least two hours of which shall be in ethics/professionalism. The ethics and professionalism components may be integrated with other courses. This rule shall apply to all attorneys except the following:

(1) Judges and senior judges of the supreme, appellate or superior courts, judge trial referees, family support magistrates, family support magistrate referees, workers' compensation commissioners, federal judges, federal magistrate judges, federal administrative law judges or federal bankruptcy judges;

(2) Attorneys who are disbarred, resigned pursuant to Section 2-52, on inactive status pursuant to Section 2-56 et seq., or retired pursuant to Sections 2-55 or 2-55A;

(3) Attorneys who are serving on active duty in the armed forces of the United States for more than six months in such year;

(4) Attorneys for the calendar year in which they are admitted;

(5) Attorneys who earn less than $1000 in compensation for the provision of legal services in such year;

(6) Attorneys who, for good cause shown, have been granted temporary or permanent exempt status by the statewide grievance committee.

(b) Attorneys may satisfy the required hours of continuing legal education:

(1) By attending legal education courses provided by any local, state or special interest bar association in this state or regional or national bar associations recognized in this state or another state or territory of the United States or the District of Columbia (hereinafter referred to as ''bar association''); any private or government legal employer; any court of this or any other state or territory of the United States or the District of Columbia; any organization whose program or course has been reviewed and approved by any bar association or organiza-

tion that has been established in any state or territory of the United States or the District of Columbia to certify and approve continuing legal education courses; and any other nonprofit or for-profit legal education providers, including law schools and other appropriate continuing legal education providers, and including courses remotely presented by video conference, webcasts, webinars, or the like by said providers.

(2) By self-study of appropriate programs or courses directly related to substantive or procedural law or related topics, including professional responsibility, legal ethics, or law office management and prepared by those continuing legal education providers in subsection (b) (1). Said self-study may include viewing and listening to all manner of communication, including, but not limited to, video or audio recordings or taking online legal courses. The selection of self-study courses or programs shall be consistent with the objective of this rule, which is to maintain and enhance the skill level, knowledge, ethics and competence of the attorney and shall comply with the minimum quality standards set forth in subsection (c) (6).

(3) By publishing articles in legal publications that have as their primary goal the enhancement of competence in the legal profession, including, without limitation, substantive and procedural law, ethics, law practice management and professionalism.

(4) By teaching legal seminars and courses, including the participation on panel discussions as a speaker or moderator.

(5) By serving as a full-time faculty member at a law school accredited by the American Bar Association, in which case, such attorney

will be credited with meeting the minimum continuing legal education requirements set forth herein.

(6) By serving as a part-time or adjunct faculty member at a law school accredited by the American Bar Association, in which case, such attorney will be credited with meeting the minimum continuing legal education requirements set forth herein at the rate of one hour for each hour of classroom instruction.

(c) Credit Computation:

(1) Credit for any of the above activities shall be based on the actual instruction time, which may include lecture, panel discussion, and question and answer periods. Self-study credit shall be based on the reading time or running time of the selected materials or program.

(2) Credit for attorneys preparing for and presenting legal seminars, courses or programs shall be based on one hour of credit for each two hours of preparation. A maximum of six hours of credit may be credited for preparation of a single program. Credit for presentation shall be on an hour for hour basis. Credit may not be earned more than once for the same course given during a twelve month period.

(3) Credit for the writing and publication of articles shall be based on the actual drafting time required. Each article may be counted only one time for credit.

(4) Continuing legal education courses ordered pursuant to Section 2-37 (a) (5) or any court order of discipline shall not count as credit toward an attorney's obligation under this section.

(5) Attorneys may carry forward no more than two credit hours in excess of the current annual continuing legal education requirement

to be applied to the following year's continuing legal education requirement.

(6) To be eligible for continuing legal education credit, the course or activity must: (A) have significant intellectual or practical content designed to increase or maintain the attorney's professional competence and skills as a lawyer; (B) constitute an organized program of learning dealing with matters directly related to legal subjects and the legal profession; and (C) be conducted by an individual or group qualified by practical or academic experience.

(d) Attorneys shall retain records to prove compliance with this rule for a period of seven years.

(e) Violation of this section shall constitute misconduct.

(f) Unless it is determined that the violation of this section was wilful, a noncompliant attorney must be given at least sixty days to comply with this section before he or she is subject to any discipline.

(g) A minimum continuing legal education commission (''commission'') shall be established by the judicial branch and shall be composed of four superior court judges and four attorneys admitted to practice in this state, all of whom shall be appointed by the chief justice of the supreme court or his or her designee and who shall serve without compensation. The charge of the commission will be to provide advice regarding the application and interpretation of this rule and to assist with its implementation including, but not limited to, the development of a list of frequently asked questions and other documents to assist the members of the bar to meet the requirements of this rule.

COMMENTARY 2017: It is the intention of this rule to provide attorneys with relevant and useful continuing legal education covering the broadest spectrum of substantive, procedural, ethical and professional subject matter at the lowest cost reasonably feasible and with the least amount of supervision, structure and reporting requirements, which will aid in the development, enhancement and maintenance of the legal knowledge and skills of practicing attorneys and will facilitate the delivery of competent legal services to the public.

The rule also permits an attorney to design his or her own course of study. The law is constantly evolving and attorneys, like all other professionals, are expected to keep abreast of changes in the profession and the law if they are to provide competent representation.

Subsection (a) provides that Connecticut attorneys must complete twelve credit hours of continuing legal education per calendar year. Subsection (a) also lists those Connecticut attorneys, who are exempt from compliance, including, among others: judges, senior judges, attorneys serving in the military, new attorneys during the year in which they are admitted to practice, attorneys who earn less than $1000 in compensation for the provision of legal services in the subject year, and those who obtain an exempt status for good cause shown. The subsection also provides an exemption for attorneys who are disbarred, resigned, on inactive status due to disability, or are retired. The exemption for attorneys who earn less than $1000 in compensation in a particular year is not intended to apply to attorneys who claim that they were not paid as a result of billed fees to a client. All compensation received for the provision of legal services, whether the result of billed

fees or otherwise, must be counted. There is no exemption for attorneys who are suspended or on administrative suspension.

Subsection (d) requires an attorney to maintain adequate records of compliance. For continuing legal education courses, a certificate of attendance shall be sufficient proof of compliance. For self-study, a contemporaneous log identifying and describing the course listened to or watched and listing the date and time the course was taken, as well as a copy of the syllabus or outline of the course materials, if available, and, when appropriate, a certificate from the course provider, shall be sufficient proof of compliance. For any other form of continuing legal education, a file including a log of the time spent and drafts of the prepared material shall provide sufficient proof of compliance.

COMMENTARY 2019: The change to this section adds workers' compensation commissioners to the list of attorneys who are exempt from the requirements of this rule.

Sec. 2-28A. Attorney Advertising; Mandatory Filing

(a) Any attorney who advertises services to the public through any media, electronic or otherwise, or through written or recorded communication pursuant to Rule 7.2 of the Rules of Professional Conduct shall file a copy of each such advertisement or communication with the Statewide Grievance Committee either prior to or concurrently with the attorney's first dissemination of the advertisement or written or recorded communication, except as otherwise provided in subsection (b) herein. The materials shall be filed in a format prescribed by the Statewide Grievance Committee, which may require them to be filed

electronically. Any such submission in a foreign language must include an accurate English language translation.

The filing shall consist of the following:

(1) A copy of the advertisement or communication in the form or forms in which it is to be disseminated (e.g., videotapes, DVDs, audiotapes, compact discs, print media, photographs of outdoor advertising);

(2) A transcript, if the advertisement or communication is in video or audio format;

(3) A list of domain names used by the attorney primarily to offer legal services, which shall be updated quarterly;

(4) A sample envelope in which the written communication will be enclosed, if the communication is to be mailed;

(5) A statement listing all media in which the advertisement or communication will appear, the anticipated frequency of use of the advertisement or communication in each medium in which it will appear, and the anticipated time period during which the advertisement or communication will be used.

(b) The filing requirements of subsection (a) do not extend to any of the following materials:

(1) An advertisement in the public media that contains only **[**the information**]**, in whole or in part, **[**contained in Rule 7.2 (i) of the Rules of Professional Conduct**]** the following information, provided the information is not false or misleading;

(A) The name of the lawyer or law firm, a listing of lawyers associated with the firm, office addresses and telephone numbers, office and

telephone service hours, fax numbers, website and e-mail addresses and domain names, and a designation such as ''attorney'' or ''law firm'';

(B) Date of admission to the Connecticut bar and any other bars and a listing of federal courts and jurisdictions where the lawyer is licensed to practice;

C) Technical and professional licenses granted by the state or other recognized licensing authorities;

(D) Foreign language ability;

(E) Fields of law in which the lawyer practices or is designated, subject to the requirements of Rule 7.1, or is certified pursuant to Rule 7.4A;

(F) Prepaid or group legal service plans in which the lawyer participates;

(G) Acceptance of credit cards;

(H) Fee for initial consultation and fee schedule; and

(I) A listing of the name and geographic location of a lawyer or law firm as a sponsor of a public service announcement or charitable, civic or community program or event.

(2) An advertisement in a telephone directory;

(3) A listing or entry in a regularly published law list;

(4) An announcement card stating new or changed associations, new offices, or similar changes relating to an attorney or firm, or a tombstone professional card;

(5) A communication sent only to:

(A) Existing or former clients;

(B) Other attorneys or professionals; business organizations including trade groups; not-for-profit organizations; governmental bodies and/or

(C) Members of a not-for-profit organization that meets the following conditions: the primary purposes of the organization do not include the rendition of legal services; the recommending, furnishing, paying for or educating persons regarding legal services is incidental and reasonably related to the primary purposes of the organization; the organization does not derive a financial benefit from the rendition of legal services by an attorney; and the person for whom the legal services are rendered, and not the organization, is recognized as the client of the attorney who is recommended, furnished, or paid for by the organization.

(6) Communication that is requested by a prospective client.

(7) The contents of an attorney's Internet website that appears under any of the domain names submitted pursuant to subdivision (3) of subsection (a).

(c) If requested by the Statewide Grievance Committee, an attorney shall promptly submit information to substantiate statements or representations made or implied in any advertisement in the public media and/or written or recorded communications.

(d) The statewide bar counsel shall review advertisements and communications filed pursuant to this section that have been selected for such review on a random basis. If after such review the statewide bar counsel determines that an advertisement or communication does not comply with the Rules of Professional Conduct, the statewide bar

counsel shall in writing advise the attorney responsible for the advertisement or communication of the noncompliance and shall attempt to resolve the matter with such attorney. If the matter is not resolved to the satisfaction of the statewide bar counsel, he or she shall forward the advertisement or communication and a statement describing the attempt to resolve the matter to the Statewide Grievance Committee for review. If, after reviewing the advertisement or communication, the Statewide Grievance Committee determines that it violates the Rules of Professional Conduct, it shall forward a copy of its file to the disciplinary counsel and direct the disciplinary counsel to file a presentment against the attorney in the Superior Court.

(e) The procedure set forth in subsection (d) shall apply only to advertisements and communications that are reviewed as part of the random review process. If an advertisement or communication comes to the attention of the statewide bar counsel other than through that process, it shall be handled pursuant to the grievance procedure that is set forth in Section 2-29 et seq.

(f) The materials required to be filed by this section shall be retained by the Statewide Grievance Committee for a period of one year from the date of their filing, unless, at the expiration of the one year period, there is pending before the Statewide Grievance Committee, a reviewing committee, or the court a proceeding concerning such materials, in which case the materials that are the subject of the proceeding shall be retained until the expiration of the proceeding or for such other period as may be prescribed by the Statewide Grievance Committee.

(g) Except for records filed in court in connection with a presentment brought pursuant to subsection (d), records maintained by the statewide bar counsel, the Statewide Grievance Committee and/ or the Disciplinary Counsel's Office pursuant to this section shall not be public. Nothing in this rule shall prohibit the use or consideration of such records in any subsequent disciplinary or client security fund proceeding and such records shall be available in such proceedings to a judge of the Superior Court or to the standing committee on recommendations for admission to the bar, to disciplinary counsel, to the statewide bar counsel or assistant bar counsel, or, with the consent of the respondent, to any other person, unless otherwise ordered by the court.

(h) Violation of subsections (a) or (c) shall constitute misconduct.

COMMENTARY: The purpose of the amendments to Rules 7.1–7.5 and to Section 2-28A is to incorporate the 2018 amendments to the American Bar Association's Model Rules of Professional Conduct concerning attorney advertising.

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 the filing of a new appearance that is stated to be in place of the appearance on file in accordance with Section 3-8. Appropriate entries shall be made in the court file. 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 place of appearance at any time.

(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) In addition to the grounds set forth in subsections (a), (b), and (d), a lawyer who represents a party or parties on a limited basis in accordance with Section 3-8 (b) and has completed his or her representation as defined in the limited appearance, shall file a certificate of completion of limited appearance on judicial branch form JD-CL-122.

The certificate shall constitute a full withdrawal of a limited appearance. Copies of the certificate must be served in accordance with Sections 10-12 through 10-17 on the client, and all attorneys and self-represented parties of record.

(d) 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.

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

(f) All appearances in juvenile matters shall be deemed to continue during the period of delinquency probation supervision or probation supervision with residential placement, family with service needs supervision, **[**or**]** any commitment to the commissioner of the department of children and families pursuant to General Statutes § 46b-129 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 attorney remains under contract to the office of the chief public defender to represent parties in child protection matters, 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 revision to subsection (e) of this section is intended to clarify that except as otherwise provided in subsections (a), (b), (c) and (d), no attorney shall withdraw his or her appearance in any civil, criminal, family, juvenile or other matter without the court's permission. For example, where a criminal defendant fails to appear after an appearance has been entered, the appearance shall not be withdrawn by the attorney without permission of the court.

The revisions to subsection (f) of this section conform the section to the provisions of No. 18-31 of the 2018 Public Acts.

Sec. 6-3. –Preparation; When; By Whom; Filing

(a) Judgment files in civil, criminal, family and juvenile cases shall be prepared when: (1) an appeal is taken; (2) a party requests in writing that the judgment be incorporated into a judgment file; (3) a judgment has been entered involving the granting of a dissolution of marriage or civil union, a legal separation, an annulment, injunctive relief, or title to property (including actions to quiet title but excluding actions of foreclosure), except in those instances where judgment is entered in such cases pursuant to Section 14-3 and no appeal has been taken from the judicial authority's judgment; (4) a judgment has been entered in a juvenile matter involving allegations that a child has

been neglected, abused, or uncared for, or involving termination of parental rights, **[**commitment of a delinquent child**]** or commitment of a child from a family with service needs; (5) in criminal cases, sentence review is requested; or (6) ordered by the judicial authority.

(b) Unless otherwise ordered by the judicial authority, the judgment file in juvenile cases shall be prepared by the clerk and in all other cases, in the clerk's discretion, by counsel or the clerk.

As to judgments of foreclosure, the clerk's office shall prepare a certificate of judgment in accordance with a form prescribed by the chief court administrator only when requested in the event of a redemption. In those cases in which a plaintiff has secured a judgment of foreclosure under authority of General Statutes § 49-17, when requested, the clerk shall prepare a decree of foreclosure in accordance with a form prescribed by the chief court administrator.

(c) Judgment files in family cases shall be filed within sixty days of judgment.

COMMENTARY: The proposed amendments to this section conform the section to the provisions of No. 18-31 of the 2018 Public Acts.

PROPOSED AMENDMENTS TO THE CIVIL RULES

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 percent 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] <u>persons who are elderly, persons who are blind or visually impaired or persons with disabilities</u>, food stamps and supplemental security income.

(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 conform it to the provisions of No. 17-202 of the 2017 Public Acts.

(NEW) Sec. 13-12A. Disclosure of Medicare Enrollment, Eligibility and Payments Received

In any civil action involving allegations of personal injury, information on the claimant's Medicare enrollment status, eligibility or payments received, which is sufficient to allow providers of liability insurance, including self-insurance, no fault insurance, and/or worker's compensation insurance to comply with Medicare Secondary Payer obligations, including those imposed under 42 U.S.C. § 1395y (b) (2) and 42 U.S.C. § 1395y (b) (8), shall be subject to discovery by any party by interrogatory as provided in Sections 13-6 through 13-8. The inter-

rogatories shall be limited to those set forth in Form 217. The information disclosed pursuant to this section shall not be admissible at trial solely by reason of such disclosure. Such information shall be used only for purposes of the litigation and for complying with 42 U.S.C. § 1395y (b) (8) and shall not be used or disclosed for any other purpose.

COMMENTARY: This new section requires disclosure of Medicare enrollment, eligibility and payments received in any civil action involving allegations of personal injury.

Sec. 16-4. Disqualification of Jurors and Selection of Panel

(a) A person shall be disqualified to serve as a juror if such person is found by the judicial authority to exhibit any quality which will impair this person's capacity to serve as a juror, except that no person shall be disqualified on the basis of deafness or <u>being hard of</u> hearing **[**impairment**]**.

(b) The clerks shall keep a list of all persons disqualified under this section and shall send a copy of that list to the jury administrator at such time as the jury administrator may direct.

(c) The clerk of the court, in impaneling the jury for the trial of each cause, shall, when more jurors are in attendance than are required of the panel, designate by lot those who shall compose the panel.

COMMENTARY: The changes to this section conform it to the provisions of No. 17-202 of the 2017 Public Acts.

Sec. 16-8. Oath and Admonitions to Trial Jurors

(a) The judicial authority shall cause the jurors selected for the trial to be sworn or affirmed in accordance with General Statutes §§ 1-23

and 1-25. The judicial authority shall admonish the jurors not to read, listen to or view news reports of the case or to discuss with each other or with any person not a member of the jury the cause under consideration, except that after the case has been submitted to the jury for deliberation the jurors shall discuss it among themselves in the jury room.

(b) In the presence of the jury, the judicial authority shall instruct any interpreter for a **[**deaf or hearing impaired**]** juror who is deaf or hard of hearing to refrain from participating in any manner in the deliberations of the jury and to refrain from having any communications, oral or visual, with any member of the jury except for the literal translation of jurors' remarks made during deliberations.

COMMENTARY: The changes to this section conform it to the provisions of No. 17-202 of the 2017 Public Acts.

Sec. 16-16. Jury Deliberations

After the case has been submitted to the jury, the jurors shall be in the custody of an officer who shall permit no person to be present with them or to speak to them when assembled for deliberations except a qualified interpreter assisting a **[**deaf or hearing impaired**]** juror who is deaf or hard of hearing. The jurors shall be kept together for deliberations as the judicial authority reasonably directs. If the judicial authority permits the jury to recess its deliberations, the judicial authority shall admonish the jurors not to discuss the case until they reconvene in the jury room. The judicial authority shall direct the jurors to select one of their members to preside over the deliberations and to deliver

any verdict agreed upon, and the judicial authority shall admonish the jurors that until they are discharged in the case they may communicate upon subjects connected with the trial only while they are convened in the jury room. If written forms of verdict are submitted to the jury, the member of the jury selected to deliver the verdict shall sign any verdict agreed upon.

COMMENTARY: The changes to this section conform it to the provisions of No. 17-202 of the 2017 Public Acts.

Sec. 23-42. –Judicial Action on Motion for Permission To Withdraw Appearance

(a) The presiding judge shall fully examine the memoranda of law filed by counsel and the petitioner, together with any relevant portions of the records of prior trial court, appellate and postconviction proceedings. If, after such examination, the presiding judge concludes that the submissions establish that the petitioner's case is wholly frivolous, such judge shall grant counsel's motion to withdraw and permit the petitioner to proceed as a self-represented party. A memorandum shall be filed under seal setting forth the basis for granting any motion under Section 23-41.

(b) If, after the examination required in subsection (a), the presiding judge does not conclude that the petitioner's case is wholly frivolous, such judge may deny the motion to withdraw, may appoint substitute counsel for further proceedings under Section 23-41, or may allow the withdrawal on other grounds and appoint new counsel to represent the petitioner.

COMMENTARY: The change to this section includes the explicit requirement that the presiding judge's memorandum of decision on motions for leave to withdraw, filed by appointed counsel pursuant to this section, is to be filed under seal. This requirement brings the rule into conformity with the Rules of Appellate Procedure, wherein the trial court's decision on a motion for leave to withdraw, filed by appointed counsel pursuant to Section 62-9 (d) (3), is sealed, in cases in which an appeal has already been filed.

Sec. 23-68. Where Presence of Person May Be by Means of an Interactive Audiovisual Device

(a) Upon motion of any party, and at the discretion of the judicial authority, any party, **[**or**]** counsel, witness, or other participant in a proceeding may appear by means of an interactive audiovisual device at any proceeding in any civil matter, including all proceedings within the jurisdiction of the small claims section, or any family matter, including all proceedings within the jurisdiction of the family support magistrate division.

(b) Upon order of the judicial authority, an incarcerated individual may be required to appear by means of an interactive audiovisual device in any civil or family matter.

(c) For purposes of this section, an interactive audiovisual device must operate so that the judicial authority; any party and his or her counsel, if any**[**,**]**; and any person appearing by means of an interactive audiovisual device pursuant to a court order under this section **[**and the judicial authority**]** can see and communicate with each other simul-

taneously. In addition, a procedure by which an incarcerated individual and his or her counsel can confer in private must be provided.

(d) Unless otherwise required by law or unless otherwise ordered by the judicial authority, prior to any proceeding in which a person appears by means of an interactive audiovisual device, copies of all documents which may be offered at the proceeding shall be provided to all counsel and self-represented parties in advance of the proceeding.

(e) Nothing contained in this section shall be construed to limit the discretion of the judicial authority to deny a request to appear by means of an interactive audiovisual device where, in the judicial authority's judgment, the interest of justice or the presentation of the case require that the party, **[**or**]** counsel, witness, or other participant in the proceeding appear in person.

(f) For purposes of this section, judicial authority includes family support magistrates and magistrates appointed by the chief court administrator pursuant to General Statutes § 51-193*l*.

COMMENTARY: The rule has been amended to permit witnesses and other participants in a proceeding to appear by means of an interactive audiovisual device upon motion and at the discretion of the judicial authority. This revision broadens the application of the rule to include appearances by means of an interactive audiovisual device by expert witnesses or other witnesses which will increase the court's flexibility in scheduling matters, minimize the inconvenience to witnesses, and reduce the costs of litigation.

PROPOSED AMENDMENTS TO THE FAMILY RULES

Sec. 25-5. Automatic Orders upon Service of Complaint or Application

The following automatic orders shall apply to both parties, with service of the automatic orders to be made with service of process of a complaint for dissolution of marriage or civil union, legal separation, or annulment, or of an application for custody or visitation. An automatic order shall not apply if there is a prior, contradictory order of a judicial authority. The automatic orders shall be effective with regard to the plaintiff or the applicant upon the signing of the complaint or the application and with regard to the defendant or the respondent upon service and shall remain in place during the pendency of the action, unless terminated, modified, or amended by further order of a judicial authority upon motion of either of the parties:

(a) In all cases involving a child or children, whether or not the parties are married or in a civil union:

(1) Neither party shall permanently remove the minor child or children from the state of Connecticut, without written consent of the other or order of a judicial authority.

(2) A party vacating the family residence shall notify the other party or the other party's attorney, in writing, within forty-eight hours of such move, of an address where the relocated party can receive communication. This provision shall not apply if and to the extent there is a prior, contradictory order of a judicial authority.

(3) If the parents of minor children live apart during this proceeding, they shall assist their children in having contact with both parties, which is consistent with the habits of the family, personally, by telephone, and in writing. This provision shall not apply if and to the extent there is a prior, contradictory order of a judicial authority.

(4) Neither party shall cause the children of the marriage or the civil union to be removed from any medical, hospital and dental insurance coverage, and each party shall maintain the existing medical, hospital and dental insurance coverage in full force and effect.

(5) The parties shall participate in the parenting education program within sixty days of the return day or within sixty days from the filing of the application.

(6) These orders do not change or replace any existing court orders, including criminal protective and civil restraining orders.

(b) In all cases involving a marriage or civil union, whether or not there are children:

(1) Neither party shall sell, transfer, exchange, assign, remove, or in any way dispose of, without the consent of the other party in writing, or an order of a judicial authority, any property, except in the usual course of business or for customary and usual household expenses or for reasonable attorney's fees in connection with this action.

(A) Nothing in subsection (b) (1) shall be construed to preclude a party from purchasing or selling securities, in the usual course of the parties' investment decisions, whether held in an individual or jointly held investment account, provided that the purchase or sale is: (i) intended to preserve the estate of the parties, (ii) transacted either on

an open and public market or at an arm's length on a private market, and (iii) completed in such manner that the purchased securities or sales proceeds resulting from a sale remain, subject to the provisions and exceptions recited in subsection (b) (1), in the account in which the securities or cash were maintained immediately prior to the transaction. Nothing contained in this subsection shall be construed to apply to a party's purchase or sale on a private market of an interest in an entity that conducts a business in which the party is or intends to become an active participant.

(B) Notwithstanding the requirement of subparagraph (A) of subsection (b) (1) that the transaction be made in the usual course of the parties' investment decisions, if historically the parties' usual course of investment decisions involves their discussion of proposed transactions with each other before they are made, but a sale proposed by one party is a matter of such urgency as to timing that the party proposing the sale has a good faith belief that the delay occasioned by such discussion would result in loss to the estate of the parties, then the party proposing the sale may proceed with the transaction without such prior discussion, but shall notify the other party of the transaction immediately upon its execution; provided, that a sale permitted by this subparagraph (B) shall be subject to all other conditions and provisions of subparagraph (A) of subsection (b) (1), so long as the transaction is intended to preserve the estate of the parties

(2) Neither party shall conceal any property.

(3) Neither party shall encumber (except for the filing of a lis pendens) without the consent of the other party, in writing, or an order of a

judicial authority, any property except in the usual course of business or for customary and usual household expenses or for reasonable attorney's fees in connection with this action.

(4) Neither party shall cause any asset, or portion thereof, co-owned or held in joint name, to become held in his or her name solely without the consent of the other party, in writing, or an order of the judicial authority.

(5) Neither party shall incur unreasonable debts hereafter, including, but not limited to, further borrowing against any credit line secured by the family residence, further encumbrancing any assets, or unreasonably using credit cards or cash advances against credit cards.

(6) Neither party shall cause the other party to be removed from any medical, hospital and dental insurance coverage, and each party shall maintain the existing medical, hospital and dental insurance coverage in full force and effect.

(7) Neither party shall change the beneficiaries of any existing life insurance policies, and each party shall maintain the existing life insurance, automobile insurance, homeowners or renters insurance policies in full force and effect.

(8) If the parties are living together on the date of service of these orders, neither party may deny the other party use of the current primary residence of the parties, whether it be owned or rented property, without order of a judicial authority. This provision shall not apply if there is a prior, contradictory order of a judicial authority.

(c) In all cases:

(1) The parties shall each complete and exchange sworn financial statements substantially in accordance with a form prescribed by the chief court administrator within thirty days of the return day. The parties may thereafter enter and submit to the court a stipulated interim order allocating income and expenses, including, if applicable, proposed orders in accordance with the uniform child support guidelines.

(2) The case management date for this case is _____. The parties shall comply with Section 25-50 to determine if their actual presence at the court is required on that date.

(d) The automatic orders of a judicial authority as enumerated above shall be set forth immediately following the party's requested relief in any complaint for dissolution of marriage or civil union, legal separation, or annulment, or in any application for custody or visitation, and shall set forth the following language in bold letters:

Failure to obey these orders may be punishable by contempt of court. If you object to or seek modification of these orders during the pendency of the action, you have the right to a hearing before a judge within a reasonable time.

The clerk shall not accept for filing any complaint for dissolution of marriage or civil union, legal separation, or annulment, or any application for custody or visitation, that does not comply with this subsection.

COMMENTARY: New subparagraph (A) of subsection (b) (1) is intended to allow one party to make certain investment transactions during the pendency of a dissolution action in a manner which is consistent with the parties' prior practice, without necessarily obtaining

the prior consent of the other party or a court order. A transaction by one party without the consent of the other should be considered ''in the usual course of the parties' investment decisions'' only if the party making the transaction has historically and consistently been the sole decision-maker with regard to transactions of similar type and magnitude. If a transaction is in the usual course of the parties' investment decisions, the other requirements of new subparagraph (A) of subsection (b) (1) must also be met in order for the transaction to be permitted. The provisions of subparagraph (A) do not apply to a transaction that permits the sale of a business under this rule, whether the party is an active participant, or not.

New subparagraph (B) of subsection (b) (1) is intended to allow, in the limited emergency circumstances described, a unilateral sale which meets all of the requirements of subparagraph (A) except that it is not of a type historically made by the sole decision of the party completing the sale.

PROPOSED AMENDMENTS TO THE JUVENILE RULES

Sec. 26-1. Definitions Applicable to Proceedings on Juvenile Matters

In these definitions and in the rules of practice and procedure on juvenile matters, the singular shall include the plural and the plural, the singular where appropriate.

(a) The definitions of the terms ''child,'' **[**''youth,''**]** ''abused,'' **[**''mentally deficient,''**]** ''delinquent,'' ''delinquent act,'' ''neglected,'' ''uncared for,'' ''alcohol-dependent child,'' ''family with service needs,'' ''drug-

dependent child,'' ''serious juvenile offense,'' ''serious juvenile offender,'' **[**and**]** ''serious juvenile repeat offender,'' ''pre-dispositional study,'' and ''risk and needs assessment'' shall be as set forth in General Statutes § 46b-120. The definition of ''victim'' shall be as set forth in General Statutes § 46b-122.

(b) ''Commitment'' means an order of the judicial authority whereby custody and/or guardianship of a child [or youth] are transferred to the commissioner of the department of children and families.

(c) ''Complaint'' means a written allegation or statement presented to the judicial authority that a child's **[**or youth's**]** conduct as a delinquent or situation as a child from a family with service needs brings the child **[**or youth**]** within the jurisdiction of the judicial authority as prescribed by General Statutes § 46b-121.

(d) ''Detention'' means a secure building or staff secure facility for the temporary care of a child who is the subject of a delinquency complaint.

(e) ''Family support center'' means a community-based service center for children and families involved with a complaint that has been filed with the superior court under General Statutes § 46b-149, that provides multiple services, or access to such services, for the purpose of preventing such children and families from having further involvement with the court as families with service needs.

(f) ''Guardian'' means a person who has a judicially created relationship with a child **[**or youth**]**, which is intended to be permanent and self-sustaining, as evidenced by the transfer to the caretaker of the following parental rights with respect to the child **[**or youth**]**: protection,

education, care and control of the person, custody of the person and decision making.

(g) ''Hearing'' means an activity of the court on the record in the presence of a judicial authority and shall include (1) ''Adjudicatory hearing'': A court hearing to determine the validity of the facts alleged in a petition or information to establish thereby the judicial authority's jurisdiction to decide the matter which is the subject of the petition or information; (2) ''Contested hearing on an order of temporary custody'' means a hearing on an ex parte order of temporary custody or an order to appear which is held not later than ten days from the day of a preliminary hearing on such orders. Contested hearings shall be held on consecutive days except for compelling circumstances or at the request of the respondent; (3) ''Dispositive hearing'': The judicial authority's jurisdiction to adjudicate the matter which is the subject of the petition or information having been established, a court hearing in which the judicial authority, after considering the social study or predispositional study and the total circumstances of the child **[**or youth**]**, orders whatever action is in the best interests of the child**[**, youth**]** or family and, where applicable, the community. In the discretion of the judicial authority, evidence concerning adjudication and disposition may be presented in a single hearing; (4) ''Preliminary hearing'' means a hearing on an ex parte order of temporary custody or an order to appear or the first hearing on a petition alleging that a child **[**or youth**]** is uncared for, abused, or neglected. A preliminary hearing on any ex parte custody order or order to appear shall be held not later than ten days from the issuance of the order; (5) ''Plea hearing''

is a hearing at which (i) a parent or guardian who is a named respondent in a neglect, uncared for or dependency petition, upon being advised of his or her rights, admits, denies, or pleads nolo contendere to allegations contained in the petition; or (ii) a child **[**or youth**]** who is a named respondent in a delinquency petition or information enters a plea of not guilty, guilty, or nolo contendere upon being advised of the charges against him or her contained in the information or petition, or a hearing at which a child **[**or youth**]** who is a named respondent in a family with service needs petition admits or denies the allegations contained in the petition upon being advised of the allegations**[**.**]**; (6) ''Probation status review hearing'' means a hearing requested, ex parte, by a probation officer regardless of whether a new offense or violation has been filed. The court may grant the ex parte request, in the best interest of the child or the public, and convene a hearing on the request within seven days.

(h) ''Indian child'' means an unmarried person under age eighteen who is either a member of a federally recognized Indian tribe or is eligible for membership in a federally recognized Indian tribe and is the biological child of a member of a federally recognized Indian tribe, and is involved in custody proceedings, excluding delinquency proceedings.

(i) ''Parent'' means a biological mother or father or adoptive mother or father except a biological or adoptive mother or father whose parental rights have been terminated; or the father of any child [or youth] born out of wedlock, provided at the time of the filing of the petition (1) he has been adjudicated the father of such child **[**or youth**]** by a

court which possessed the authority to make such adjudication, or (2) he has acknowledged in writing to be the father of such child **[**or youth**]**, or (3) he has contributed regularly to the support of such child, or (4) his name appears on the birth certificate, or (5) he has filed a claim for paternity as provided under General Statutes § 46b-172a, or (6) he has been named in the petition as the father of the minor child **[**or youth**]** by the mother.

(j) ''Parties'' includes: (1) The child **[**or youth**]** who is the subject of a proceeding and those additional persons as defined herein; (2) ''Legal party'': Any person, including a parent, whose legal relationship to the matter pending before the judicial authority is of such a nature and kind as to mandate the receipt of proper legal notice as a condition precedent to the establishment of the judicial authority's jurisdiction to adjudicate the matter pending before it; and (3) ''Intervening party'': Any person who is permitted to intervene in accordance with Section 35a-4.

(k) ''Permanency plan'' means a plan developed by the commissioner of the department of children and families for the permanent placement of a child **[**or youth**]** in the commissioner's care.

Permanency plans shall be reviewed by the judicial authority as prescribed in General Statutes §§ 17a-110 (b), 17a-111b (c), 46b-129 (k), **[**46b-141,**]** and 46b-149 (j).

(*l*) ''Petition'' means a formal pleading, executed under oath, alleging that the respondent is within the judicial authority's jurisdiction to adjudicate the matter which is the subject of the petition by reason of cited statutory provisions and seeking a disposition. Except for a petition

for erasure of record, such petitions invoke a judicial hearing and shall be filed by any one of the parties authorized to do so by statute.

(m) ''Information'' means a formal pleading filed by a prosecutor alleging that a child [or youth] in a delinquency matter is within the judicial authority's jurisdiction.

(n) **[**''Probation'' means a legal status created in delinquency cases following conviction whereby a respondent child is permitted to remain in the home or in the physical custody of a relative or other fit person subject to supervision by the court through the court's probation officers and upon such terms as the judicial authority determines, subject to the continuing jurisdiction of the judicial authority.**]** ''Probation supervision'' means a legal status whereby a juvenile who has been adjudicated delinquent is placed by the court under the supervision of juvenile probation for a specified period of time and upon such terms as the court determines.

(o) ''Probation supervision with residential placement'' means a legal status whereby a juvenile who has been adjudicated delinquent is placed by the court under the supervision of juvenile probation for a specified period of time, upon such terms as the court determines, that include a period of placement in a secure or staff-secure residential treatment facility, as ordered by the court, and a period of supervision in the community.

[(o)**]**(p) ''Respondent'' means a person who is alleged to be a delinquent or a child from a family with service needs, or a parent or a guardian of a child **[**or youth**]** who is the subject of a petition alleging that

the child is uncared for, abused, neglected, or requesting termination of parental rights.

(q) ''Secure-residential facility'' means a hardware-secured residential facility that includes direct staff supervision, surveillance enhancements and physical barriers that allow for close supervision and controlled movement in a treatment setting.

[(p)**]**(r) ''Specific steps'' means those judicially determined steps the parent or guardian and the commissioner of the department of children and families should take in order for the parent or guardian to retain or regain custody of a child **[**or youth**]**.

[(q)**]**(s) ''Staff secure facility'' means a residential facility: (1) that does not include construction features designed to physically restrict the movements and activities of juvenile residents who are placed therein, (2) that may establish reasonable rules restricting entrance to and egress from the facility, and (3) in which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision.

(t) ''Staff-secure residential facility'' means a residential facility that provides residential treatment for children in a structured setting where the children are monitored by staff.

[(r)**]**(u) ''Supervision'' includes: (1) ''Nonjudicial supervision'': A legal status without the filing of a petition or a court conviction or adjudication but following the child's admission to a complaint wherein a probation officer exercises supervision over the child with the consent of the child and the parent; (2) ''Protective supervision'': A disposition following

adjudication in neglected, abused or uncared for cases created by an order of the judicial authority requesting a supervising agency other than the court to assume the responsibility of furthering the welfare of the family and best interests of the child **[**or youth**]** when the child's **[**or youth's**]** place of abode remains with the parent or any suitable or worthy person, or when the judicial authority vests custody or guardianship in another suitable and worthy person, subject to the continuing jurisdiction of the court; and (3) ''Judicial supervision'': A legal status similar to probation for a child adjudicated to be from a family with service needs or subject to supervision pursuant to an order of suspended proceedings under General Statutes § 46b-133b or § 46b-133e.

[(s)**]**(v) ''Take into Custody Order'' means an order by a judicial authority that a child be taken into custody and immediately turned over to a detention superintendent where probable cause has been found that the child has committed a delinquent act, there is no less restrictive alternative available, and the child meets the criteria set forth in Section 31a-13.

COMMENTARY: The proposed amendments to this section conform to General Statutes § 46b-120, as amended by No. 18-31, § 25, of the 2018 Public Acts.

Sec. 27-4A. Ineligibility for Nonjudicial Handling of Delinquency Complaint

In the case of a delinquency complaint, a child shall not be eligible for nonjudicial handling if one or more of the following apply, unless waived by the judicial authority:

(1) The alleged misconduct:

(A) is a serious juvenile offense under General Statutes § 46b-120, or any other felony or violation of General Statutes § 53a-54d;

(B) concerns the theft or unlawful use or operation of a motor vehicle; or

(C) concerns the sale of, or possession of with intent to sell, any illegal drugs or the use or possession of a firearm.

(2) The child was previously **[**convicted**]** adjudicated delinquent or adjudged a child from a family with service needs.

(3) The child admitted nonjudicially at least twice previously to having been delinquent.

(4) The alleged misconduct was committed by a child while on probation or under judicial supervision.

(5) If the nature of the alleged misconduct warrants judicial intervention.

COMMENTARY: The proposed amendments to this section conform the section to the provisions of No. 18-31 of the 2018 Public Acts.

Sec. 30-6. Basis for Detention

No child may be held in detention unless a judge of the superior court determines, based on the available facts that there is probable cause to believe that the child has committed the delinquent acts alleged, that there is no appropriate less restrictive alternative available and that there is (1) probable cause to believe that the level of risk that the child **[**will**]** poses **[**a risk**]** to public safety if released to the community prior to the court hearing or disposition cannot be managed in a less restrictive setting, (2) a need to hold the child in order to

ensure the child's appearance before the court or compliance with court process, as demonstrated by the child's previous failure to respond to the court process, or (3) a need to hold the child for another jurisdiction. The court in exercising its discretion to detain under General Statutes § 46b-133 (e) may consider as an alternative to detention a suspended detention order with graduated sanctions based upon a detention risk **[**assessment**]** screening for such child developed by the judicial branch.

COMMENTARY: The amendments to this section conform to General Statutes § 46b-133, as amended by No. 18-31, § 33, of the 2018 Public Acts.

(NEW) Sec. 30-12. Where Presence of a Detained Child May Be by Means of an Interactive Audiovisual Device

(a) The appearance of a detained child for proceedings held in accordance with Sections 30-10 and 30-11 may, with the consent of the detained child, the consent of counsel for the detained child, and in the discretion of the judicial authority on motion of a party or on its own motion, be made by means of an interactive audiovisual device. Such interactive audiovisual device must operate so that such detained child, counsel, and the judicial authority if the proceeding is in court, can see and communicate with each other simultaneously. In addition, a procedure by which such detained child can confer with counsel in private must be provided.

(b) Unless otherwise required by law or unless otherwise ordered by the judicial authority, prior to a detention hearing in which a detained child appears by means of an interactive audiovisual device, copies

of all documents which may be offered at the detention hearing shall be provided to all counsel.

COMMENTARY: This new rule provides for a detained child to appear by means of an interactive audiovisual device at detention hearings held in accordance with Sections 30-10 and 30-11.

Sec. 30a-3. –Standards of Proof; Burden of Going Forward

(a) The standard of proof for a delinquency **[**conviction**]** adjudication is evidence beyond a reasonable doubt and for a family with service needs adjudication is clear and convincing evidence.

(b) The burden of going forward with evidence shall rest with the juvenile prosecutor.

COMMENTARY: The amendments to this section conform the section to the provisions of No. 18-31 of the 2018 Public Acts.

Sec. 30a-5. Dispositional Hearing

(a) The dispositional hearing may follow immediately upon **[**a conviction or**]** an adjudication.

(b) The judicial authority may admit into evidence any testimony that is considered relevant to the issue of the disposition, in any form the judicial authority finds of probative value, but no disposition shall be made by the judicial authority until the predispositional study, unless waived, has been submitted. A written predispositional study may be waived by the judicial authority for good cause shown upon the request of the parties, provided that the basis for the waiver and the probation officer's oral summary of any investigation are both placed on the record. The predispositional study shall be presented to the judicial

authority and copies thereof shall be provided to all counsel in sufficient time for them to prepare adequately for the dispositional hearing, and, in any event, no less than forty-eight hours prior to the date of the disposition.

(c) The prosecutor and the child **[**or youth**]** and parent or guardian shall have the right to produce witnesses on behalf of any dispositional plan they may wish to offer.

(d) Prior to any disposition, the child [or youth] shall be allowed a reasonable opportunity to make a personal statement to the judicial authority in mitigation of any disposition.

(e) The judicial authority shall determine an appropriate disposition upon **[**conviction**]** adjudication of a child as delinquent in accordance with General Statutes §§ 46b-140 and 46b-141.

(f) The judicial authority shall determine an appropriate disposition upon adjudication of a child from a family with service needs in accordance with General Statutes § 46b-149 (h).

(g) The judicial authority shall determine the appropriate disposition upon a finding that a child adjudicated as a child from a family with service needs has violated a valid court order.

COMMENTARY: The amendments to this section conform the section to the provisions of No. 18-31 of the 2018 Public Acts.

Sec. 30a-6. –Statement on Behalf of Victim

Whenever a victim of a delinquent act, the parent or guardian of such victim or such victim's counsel exercises the right to appear before the judicial authority for the purpose of making a statement to the judicial authority concerning the disposition of the case, no state-

ment shall be received unless the delinquent has signed a statement of responsibility, confirmed a plea agreement or been **[**convicted**]** adjudicated as a delinquent.

COMMENTARY: The amendments to this section conform the section to the provisions of No. 18-31 of the 2018 Public Acts.

Sec. 31a-5. Motion for Judgment of Acquittal

(a) After the close of the juvenile prosecutor's case in chief, upon motion of the child **[**or youth**]** or upon its own motion, the judicial authority shall order the entry of a judgment of acquittal as to any principal offense charged and as to any lesser included offense for which the evidence would not reasonably permit an adjudication **[**or finding of guilty**]**. Such judgment of acquittal shall not apply to any lesser included offense for which the evidence would reasonably permit a finding of guilty.

(b) The judicial authority shall either grant or deny the motion before calling upon the child **[**or youth**]** to present the respondent's case in chief. If the motion is not granted, the respondent may offer evidence without having reserved the right to do so.

COMMENTARY: The amendments to this section conform the section to the provisions of No. 18-31 of the 2018 Public Acts.

Sec. 31a-11. Motion for New Trial

(a) Upon motion of the child **[**or youth**]**, the judicial authority may grant a new trial if it is required in the interest of justice in accordance with Section 42-53 of the rules of criminal procedure.

(b) Unless otherwise permitted by the judicial authority in the interests of justice, a motion for a new trial shall be made within five days after an adjudication **[**or finding of guilty**]** or within any further time the judicial authority allows during the five day period.

(c) A request for a new trial on the ground of newly discovered evidence shall require a petition for a new trial and shall be brought in accordance with General Statutes § 52-270. The judicial authority may grant the petition even though an appeal is pending.

COMMENTARY: The amendments to this section conform the section to the provisions of No. 18-31 of the 2018 Public Acts.

Sec. 31a-18. Modification of Probation and Supervision

(a) At any time during the period of probation**[**,**]** supervision **[**or suspended commitment**]** or probation supervision with residential placement, after hearing and for good cause shown, the judicial authority may modify or enlarge the conditions, whether originally imposed by the judicial authority under this section or otherwise. The judicial authority may extend the period of probation supervision or probation supervision with residential placement by not more than twelve months, for a total maximum supervision period not to exceed thirty months as deemed appropriate by the judicial authority. The judicial authority shall cause a copy of any such order to be delivered to the child **[**or youth**]** and to such child's **[**or youth's**]** parent, guardian or other person having control over such child [or youth], and the child's **[**or youth's**]** probation officer.

(b) The child, attorney, juvenile prosecutor or parent may, in the event of disagreement, in writing request the judicial authority not later

than five days of the receipt thereof for a hearing on the propriety of the modification. In the absence of any request, the modification of the terms of probation may be effected by the probation officer with the approval of the supervisor and the judicial authority.

COMMENTARY: The amendments to this section conform to General Statutes § 46b-140a, as amended by No. 18-31, § 37, of the 2018 Public Acts.

[Sec. 31a-19. Motion for Extension of Delinquency Commitment; Motion for Review of Permanency Plan

(a) The commissioner of the department of children and families may file a motion for an extension of a delinquency commitment beyond the eighteen month or four year period on the grounds that such extension is for the best interests of the child or the community. The clerk shall give notice to the child, the child's parent or guardian, counsel of record for the parent or guardian and child at the time of disposition and, if applicable, the guardian ad litem not later than fourteen days prior to the hearing upon such motion. The judicial authority may, after hearing and upon finding such extension is in the best interests of the child or the community, continue the commitment for an additional period of not more than eighteen months.

(b) Not later than twelve months after a child is committed as a delinquent to the commissioner of the department of children and families, the judicial authority shall hold a permanency hearing. Such a hearing will be held every twelve months thereafter if the child remains committed. Such hearing may include the submission of a

motion to the judicial authority by the commissioner to either modify or extend the commitment.

(c) At least sixty days prior to each permanency hearing required under subsection (b) of this section, the commissioner of the department of children and families shall file a permanency plan with the judicial authority. At each permanency hearing, the judicial authority shall review and approve a permanency plan that is in the best interests of the child and takes into consideration the child's need for permanency. The judicial authority shall also determine whether the commissioner of the department of children and families has made reasonable efforts to achieve the permanency plan.**]**

COMMENTARY: The repeal of this section conforms to the provisions of No. 18-31 of the 2018 Public Acts.

PROPOSED AMENDMENTS TO THE CRIMINAL RULES

Sec. 38-8. Ten Percent Cash Bail

Unless otherwise ordered by the judicial authority, 10 percent cash bail shall be automatically available for surety bonds not exceeding $20,000. For surety bond amounts exceeding $20,000, 10% cash bail may be granted pursuant to an order of the judicial authority. This 10 percent option applies to bonds set by court as well as bonds set at the police department.

When 10 percent cash bail is **[**granted**]** authorized either automatically or pursuant to court order, upon the depositing in cash, by the defendant or any person in his or her behalf other than a paid surety, of 10 percent of the surety bond set, the defendant shall thereupon

be admitted to bail in the same manner as a defendant who has executed a bond for the full amount. If such bond is forfeited, the defendant shall be liable for the full amount of the bond. Upon discharge of the bond, the 10 percent cash deposit made with the clerk shall be returned to the person depositing the same, less any fee that may be required by statute.

COMMENTARY: The change to this section will allow for 10 percent cash bail to be automatically available for surety bonds under $20,000 both at court and at the police department.

Sec. 42-5. Disqualification of Jurors and Selection of Panel

A person shall be disqualified to serve as a juror if such person is found by the judicial authority to exhibit any quality which will impair that person's capacity to serve as a juror, except that no person shall be disqualified on the basis of deafness or <u>being hard of</u> hearing **[**impairment**]**. The clerk shall keep a list of all persons disqualified under this section and shall send a copy of that list to the jury administrator at such time as the jury administrator may direct. The clerk of the court, in impaneling the jury for the trial of each cause, shall, when more jurors are in attendance than are required for the panel, designate by lot those who shall compose the panel.

COMMENTARY: The changes to this section conform it to the provisions of No. 17-202 of the 2017 Public Acts.

Sec. 42-10. Selection of Jury; [Deaf or Hearing Impaired] Jurors <u>Who Are Deaf or Hard of Hearing</u>

At the request of a **[**deaf or hearing impaired**]** juror <u>who is deaf or hard of hearing</u> or <u>at the request of</u> the judicial authority, an interpreter

or interpreters provided by the **[**commission on the deaf and hearing impaired**]** Judicial Branch and qualified under General Statutes § 46a-33a shall assist such juror during the juror orientation program and all subsequent proceedings, and when the jury assembles for deliberation.

COMMENTARY: The changes to this section conform it to the provisions of No. 17-202 of the 2017 Public Acts and recognize that the Commission on the Deaf and Hearing Imparied was dissolved and no longer provides interpreters to the Branch for people who are deaf or hard of hearing.

Sec. 42-14. Oath and Admonitions to Trial Jurors

(a) The judicial authority shall cause the jurors selected for the trial to be sworn or affirmed in accordance with General Statutes §§ 1-23 and 1-25. The judicial authority shall admonish the jurors not to read, listen to or view news reports of the case or to discuss with each other or with any person not a member of the jury the cause under consideration, except that after the case has been submitted to the jury for deliberation the jurors shall discuss it among themselves in the jury room.

(b) In the presence of the jury, the judicial authority shall instruct any interpreter for a **[**deaf or hearing impaired**]** juror who is deaf or hard of hearing to refrain from participating in any manner in the deliberations of the jury and to refrain from having any communications, oral or visual, with any member of the jury except for the literal translation of jurors' remarks made during deliberations.

COMMENTARY: The changes to this section conform it to the provisions of No. 17-202 of the 2017 Public Acts.

Sec. 42-21. Jury Deliberations

After the case has been submitted to the jury, the jurors shall be in the custody of an officer who shall permit no person to be present with them or to speak to them when assembled for deliberations except a qualified interpreter assisting a **[**deaf or hearing impaired**]** juror who is deaf or hard of hearing. The jurors shall be kept together for deliberations as the judicial authority reasonably directs. If the judicial authority permits the jury to recess its deliberations, the judicial authority shall admonish the jurors not to discuss the case until they reconvene in the jury room. The judicial authority shall direct the jurors to select one of their members to preside over the deliberations and to deliver any verdict agreed upon, and the judicial authority shall admonish the jurors that until they are discharged in the case they may communicate upon subjects connected with the trial only while they are convened in the jury room. If written forms of verdict are submitted to the jury pursuant to Section 42-23, the member of the jury selected to deliver the verdict shall sign any verdict agreed upon.

COMMENTARY: The changes to this section conform it to the provisions of No. 17-202 of the 2017 Public Acts

Sec. 42-22. Sequestration of Jury

If a case involves the penalty of capital punishment or imprisonment for life or is of such notoriety or its issues are of such a nature that, absent sequestration, highly prejudicial matters are likely to come to

the jury's attention, the judicial authority, upon its own motion or the motion of either party, may order that the jurors remain together in the custody of an officer during the trial and until they are discharged from further consideration of the case. Such order shall include an interpreter or interpreters assisting a **[**deaf or hearing impaired**]** juror who is deaf or hard of hearing. A motion to sequester may be made at any time. The jury shall not be informed which party requested sequestration.

COMMENTARY: The changes to this section conform it to the provisions of No. 17-202 of the 2017 Public Acts

Sec. 43-36. –Finding That Appeal Is Frivolous

The presiding judge shall fully examine memorandum of law of counsel and the defendant, together with any relevant portions of the record and transcript of the trial. If, after such examination, the presiding judge concludes that the defendant's appeal is wholly frivolous, such judge may grant counsel's motion to withdraw and permit the defendant to proceed as a self-represented party. The presiding judge shall file a memorandum under seal setting forth the basis for the finding that the appeal is wholly frivolous.

COMMENTARY: The change to this section includes the explicit requirement that the presiding judge's memorandum of decision on motions for leave to withdraw, filed by appointed counsel pursuant to this section, is to be filed under seal. This requirement brings the rule into conformity with the Rules of Appellate Procedure, wherein the trial court's decision on a motion for leave to withdraw, filed by appointed counsel pursuant to Section 62-9 (d) (3), is sealed, in cases in which an appeal has already been filed.

PROPOSED NEW PRACTICE BOOK FORM

(NEW) Form 217

Interrogatories
Civil Actions Alleging Personal Injury
Medicare Enrollment, Eligibility and Payments

No. CV-	: SUPERIOR COURT
(Plaintiff)	: JUDICIAL DISTRICT OF
VS.	: AT
(Defendant)	: (Date)

The undersigned, on behalf of the _____, hereby propounds the following interrogatories to be answered under oath by the party being served within sixty (60) days of the service hereof in compliance with Practice Book Section 13-2.

Definition: ''You'' shall mean the party to whom these interrogatories are directed except that if suit has been instituted by the representative of the estate of a decedent, ward, or incapable person,

''You'' shall also refer to the party's decedent, ward or incapable person unless the context of an interrogatory clearly indicates otherwise.

In answering these interrogatories, You are required to provide all information within your knowledge, possession or power. If an interrogatory has subparts, answer each subpart separately and in full and do not limit the answer to the interrogatory as a whole. If any interrogatories cannot be answered in full, answer to the extent possible.

(1) State the following:

(a) your full name:

(b) any other name(s) by which You have been known:

(c) your date of birth:

(d) your home address:

(e) your business address:

(2) State whether You have ever been enrolled in a plan offered pursuant to any Medicare Part:

(a) If your answer to the previous Interrogatory (2) is affirmative, state the following:

(i) the effective date(s):

(ii) your Medicare claim number(s):

(iii) your name exactly as it appears on your Medicare card:

(3) State whether a plan offered pursuant to any Medicare Part has paid any bills for treatment of any injuries allegedly sustained as a result of the incident alleged in your complaint:

(a) If your answer to the previous Interrogatory (3) is affirmative, state the amount paid:

4. If You are not presently enrolled in any Medicare Part, state whether You are eligible to enroll:

5. If You are not presently enrolled in any Medicare Part, State whether You plan to apply within the next thirty-six (36) months:

BY_____

I,_____, hereby certify that I have reviewed the above interrogatories and responses thereto and that

they are true and accurate to the best of my knowledge and belief.

_____

Subscribed and sworn to before me this _____day of _____, 20___.

_____

Notary Public/

Commissioner of the Superior Court

CERTIFICATION

I certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on (date): _____ to all attorneys and self-represented parties of record and to all parties who have not appeared in this matter and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

Name and address of each party and attorney that copy was or will immediately be mailed or delivered to*

*If necessary, attach additional sheet or sheets with the name and address which the copy was or will immediately be mailed or delivered to.

Signed (Signature of filer) Print or type name of person signing Date Signed

Mailing address (Number, street, town, state and zip code) or E-mail address, if applicable Telephone number

COMMENTARY: This new Form 217, established pursuant to (New) Section 13-12A, sets forth questions regarding Medicare enrollment status, eligibility or payments received and may be used in any civil

action involving allegations of personal injury. The questions are intended to allow parties' providers of liability insurance, including self-insurance, no fault insurance and worker's compensation insurance, to acquire information necessary to satisfy federal requirements regarding claimants' Medicare enrollment and reimbursement.