Practice Book Amendments
Rules of Professional Conduct
Superior Court Rules
Forms

July 13, 2021

NOTICE

SUPERIOR COURT

On June 11, 2021, the judges of the Superior Court adopted the amendments to the Practice Book contained in Part I of this Notice. Those amendments become effective on January 1, 2022, except that:

the amendments to Section 2-35 (g) become effective on July 13, 2021, upon promulgation, by being published in the Connecticut Law Journal, pursuant to Section 1-9 of the Practice Book; and

the amendments to Sections 3-8 (b) and 35a-21, which were adopted on an interim basis on June 26, 2020, and made effective on promulgation on July 14, 2020, and which were the subject of the public hearing on May 10, 2021, remain in effect, uninterrupted.

Also on June 11, 2021, the judges of the Superior Court considered the amendments to the Practice Book that are contained in Part II of this Notice and adopted the following recommendations in connection with those amendments:

the suspension of Section 2-27A, concerning Minimum Continuing Legal Education (MCLE) requirements for 2020, and the amendments to Sections 23-68 and 44-10A, concerning the use of interactive audiovisual devices in civil, family, and criminal matters, remain in effect, uninterrupted;

Section E3-22 concerning Certified Law School Graduates, remains in effect until no later than November 15, 2021; and

the remaining amendments to the Practice Book contained in Part II of this Notice remain in effect until no later than the expiration of the public health and civil preparedness emergencies first declared by the Governor on March 10, 2020, and thereafter declared anew, and renewed and extended.

At the time of publication of this Notice, the public health and civil preparedness emergencies declared by the Governor are scheduled to expire on July 20, 2021. Any amendments to the Practice Book that expire as a result of the termination of the declared emergencies will not appear in the 2022 edition of the Practice Book.

Attest:

Joseph J. Del Ciampo
Counsel to the Rules Committee
Director of Legal Services

INTRODUCTION

Contained herein are amendments to the Rules of Professional Conduct, the Superior Court Rules, and new Forms. These amendments are indicated by brackets for deletions and underlines for added language. The designation ''NEW'' is printed with the title of each new rule and form. This material should be used as a supplement to the Practice Book until the next edition becomes available.

The Amendment Notes to the Rules of Professional Conduct and the Commentaries to the Superior Court Rules are for informational purposes only.

Rules Committee of the
Superior Court

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AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT

Rule 1.8. Conflict of Interest: Prohibited Transactions

(a) A lawyer shall not enter into a business transaction, including investment services, with a client or former client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client or former client unless:

(1) The transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client or former client and are fully disclosed and transmitted in writing to the client or former client in a manner that can be reasonably understood by the client or former client;

(2) The client or former client is advised in writing that the client or former client should consider the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel in the transaction;

(3) The client or former client gives informed consent in writing signed by the client or former client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction;

(4) With regard to a business transaction, the lawyer advises the client or former client in writing either (A) that the lawyer will provide legal services to the client or former client concerning the transaction, or (B) that the lawyer will not provide legal services to the client or former client and that the lawyer is involved as a business person only and not as a lawyer representing the client or former client and

that the lawyer is not one to whom the client or former client can turn for legal advice concerning the transaction; and

(5) With regard to the providing of investment services, the lawyer advises the client or former client in writing (A) whether such services are covered by legal liability insurance or other insurance, and either (B) that the lawyer will provide legal services to the client or former client concerning the transaction, or (C) that the lawyer will not provide legal services to the client or former client and that the lawyer is involved as a business person only and not as a lawyer representing the client or former client and that the lawyer is not one to whom the client or former client can turn to for legal services concerning the transaction. Investment services shall only apply where the lawyer has either a direct or indirect control over the invested funds and a direct or indirect interest in the underlying investment.

For purposes of subsection (a) (1) through (a) (5), the phrase ''former client'' shall mean a client for whom the two-year period starting from the conclusion of representation has not expired.

(b) A lawyer shall not use information relating to representation of a client to the disadvantage of the client unless the client gives informed consent, except as permitted or required by these Rules.

(c) A lawyer shall not solicit any substantial gift from a client, including a testamentary gift, or prepare on behalf of a client an instrument giving the lawyer or a person related to the lawyer any substantial gift, unless the lawyer or other recipient of the gift is related to the client. For purposes of this paragraph, related persons include a spouse, child, grandchild, parent, grandparent or other relative or indi-

vidual with whom the lawyer or the client maintains a close, familial relationship.

(d) Prior to the conclusion of representation of a client, a lawyer shall not make or negotiate an agreement giving the lawyer literary or media rights to a portrayal or account based in substantial part on information relating to the representation.

(e) A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:

(1) A lawyer may pay court costs and expenses of litigation on behalf of a client, the repayment of which may be contingent on the outcome of the matter;

(2) A lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client**[.]**; and

(3) A lawyer representing an indigent client pro bono; a lawyer representing an indigent client pro bono through a nonprofit legal services or public interest organization, a law school clinical or pro bono program, or a state or local bar association program; and a lawyer representing an indigent client through a public defender's office may provide modest gifts to the client to pay for food, shelter, transportation, medicine and other basic living expenses. A lawyer may not:

(i) promise, assure or imply the availability of such gifts prior to retention, or as an inducement to continue the client-lawyer relationship after retention, or as an inducement to take, or forgo taking, any action in the matter;

(ii) seek or accept reimbursement from the client, a relative of the client, or anyone affiliated with the client; or

(iii) publicize or advertise a willingness to provide such gifts to prospective clients.

A lawyer may provide financial assistance permitted by this Rule even if the representation is eligible for fees under a fee-shifting statute.

(f) A lawyer shall not accept compensation for representing a client from one other than the client unless:

(1) The client gives informed consent; subject to revocation by the client, such informed consent shall be implied where the lawyer is retained to represent a client by a third party obligated under the terms of a contract to provide the client with a defense;

(2) There is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship; and

(3) Information relating to representation of a client is protected as required by Rule 16.

(g) A lawyer who represents two or more clients shall not participate in making an aggregate settlement of the claims of or against the clients, or in a criminal case an aggregated agreement as to guilty or nolo contendere pleas, unless each client gives informed consent, in a writing signed by the client. The lawyer's disclosure shall include the existence and nature of all the claims or pleas involved and of the participation of each person in the settlement. Subject to revocation by the client and to the terms of the contract, such informed consent shall be implied and need not be in writing where the lawyer is retained to represent a client by a third party obligated under the terms of a

contract to provide the client with a defense and indemnity for the loss and the third party elects to settle a matter without contribution by the client.

(h) A lawyer shall not:

(1) Make an agreement prospectively limiting the lawyer's liability to a client for malpractice unless the client is independently represented in making the agreement; or

(2) Settle a claim or potential claim for such liability with an unrepresented client or former client unless that person is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel in connection therewith.

(i) A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, except that the lawyer may:

(1) Acquire a lien granted by law to secure the lawyer's fee or expenses; and

(2) Contract with a client for a reasonable contingent fee in a civil case.

(j) A lawyer shall not have sexual relations with a client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced.

(k) While lawyers are associated in a firm, a prohibition in the foregoing subsection (a) through (i) that applies to any one of them shall apply to all of them.

COMMENTARY: **Business Transactions between Client and Lawyer.** Subsection (a) expressly applies to former clients as well as

existing clients. A lawyer's legal skill and training, together with the relationship of trust and confidence between lawyer and client, create the possibility of overreaching when the lawyer participates in a business, property or financial transaction with a client, for example, a loan or sales transaction or a lawyer investment on behalf of a client. The requirements of subsection (a) must be met even when the transaction is not closely related to the subject matter of the representation, as when a lawyer drafting a will for a client learns that the client needs money for unrelated expenses and offers to make a loan to the client. It also applies to lawyers purchasing property from estates they represent. It does not apply to ordinary fee arrangements between client and lawyer, which are governed by Rule 1.5, although its requirements must be met when the lawyer accepts an interest in the client's business or other nonmonetary property as payment of all or part of a fee. In addition, the Rule does not apply to standard commercial transactions between the lawyer and the client for products or services that the client generally markets to others, for example, banking or brokerage services, products manufactured or distributed by the client, and utilities' services. In such transactions, the lawyer has no advantage in dealing with the client, and the restrictions in subsection (a) are unnecessary and impracticable.

Subsection (a) (1) requires that the transaction itself be fair to the client and that its essential terms be communicated to the client, in writing, in a manner that can be reasonably understood. Subsection (a) (2) requires that the client also be advised, in writing, of the desirability of seeking the advice of independent legal counsel. It also requires

that the client be given a reasonable opportunity to obtain such advice. Subsection (a) (3) requires that the lawyer obtain the client's informed consent, in a writing signed by the client, both to the essential terms of the transaction and to the lawyer's role. When necessary, the lawyer should discuss both the material risks of the proposed transaction, including any risk presented by the lawyer's involvement, and the existence of reasonably available alternatives and should explain why the advice of independent legal counsel is desirable. See Rule 1.0 (f) (definition of informed consent).

The risk to a client is greatest when the client expects the lawyer to represent the client in the transaction itself or when the lawyer's financial interest otherwise poses a significant risk that the lawyer's representation of the client will be materially limited by the lawyer's financial interest in the transaction. Here, the lawyer's role requires that the lawyer must comply, not only with the requirements of subsection (a), but also with the requirements of Rule 1.7. Under that Rule, the lawyer must disclose the risks associated with the lawyer's dual role as both legal adviser and participant in the transaction, such as the risk that the lawyer will structure the transaction or give legal advice in a way that favors the lawyer's interests at the expense of the client. Moreover, the lawyer must obtain the client's informed consent. In some cases, the lawyer's interest may be such that Rule 1.7 will preclude the lawyer from seeking the client's consent to the transaction.

If the client is independently represented in the transaction, subsection (a) (2) of this Rule is inapplicable, and the subsection (a) (1) requirement for full disclosure is satisfied either by a written disclosure

by the lawyer involved in the transaction or by the client's independent counsel. The fact that the client was independently represented in the transaction is relevant in determining whether the agreement was fair and reasonable to the client as subsection (a) (1) further requires.

Use of Information Related to Representation. Use of information relating to the representation to the disadvantage of the client violates the lawyer's duty of loyalty. Subsection (b) applies when the information is used to benefit either the lawyer or a third person, such as another client or business associate of the lawyer. For example, if a lawyer learns that a client intends to purchase and develop several parcels of land, the lawyer may not use that information to purchase one of the parcels in competition with the client or to recommend that another client make such a purchase. The Rule does not prohibit uses that do not disadvantage the client. For example, a lawyer who learns a government agency's interpretation of trade legislation during the representation of one client may properly use that information to benefit other clients. Subsection (b) prohibits disadvantageous use of client information unless the client gives informed consent, except as permitted or required by these Rules. See Rules 1.2 (d), 1.6, 1.9 (c), 3.3, 4.1 (b), 8.1 and 8.3.

Gifts to Lawyers. A lawyer may accept a gift from a client, if the transaction meets general standards of fairness. For example, a simple gift such as a present given at a holiday or as a token of appreciation is permitted. If a client offers the lawyer a more substantial gift, subsection (c) does not prohibit the lawyer from accepting it, although such a gift may be voidable by the client under the doctrine of undue influence,

which treats client gifts as presumptively fraudulent. In any event, due to concerns about overreaching and imposition on clients, a lawyer may not suggest that a substantial gift be made to the lawyer or for the lawyer's benefit, except where the lawyer is related to the client as set forth in paragraph (c).

If effectuation of a substantial gift requires preparing a legal instrument such as a will or conveyance, the client should have the detached advice that another lawyer can provide. The sole exception to this Rule is where the client is a relative of the donee.

This Rule does not prohibit a lawyer from seeking to have the lawyer or a partner or associate of the lawyer named as executor of the client's estate or to another potentially lucrative fiduciary position. Nevertheless, such appointments will be subject to the general conflict of interest provision in Rule 1.7 when there is a significant risk that the lawyer's interest in obtaining the appointment will materially limit the lawyer's independent professional judgment in advising the client concerning the choice of an executor or other fiduciary. In obtaining the client's informed consent to the conflict, the lawyer should advise the client concerning the nature and extent of the lawyer's financial interest in the appointment, as well as the availability of alternative candidates for the position.

Literary Rights. An agreement by which a lawyer acquires literary or media rights concerning the conduct of the representation creates a conflict between the interests of the client and the personal interests of the lawyer. Measures suitable in the representation of the client may detract from the publication value of an account of the representation.

Subsection (d) does not prohibit a lawyer representing a client in a transaction concerning literary property from agreeing that the lawyer's fee shall consist of a share in ownership in the property, if the arrangement conforms to Rule 1.5 and subsections (a) and (i).

Financial Assistance. Lawyers may not subsidize lawsuits or administrative proceedings brought on behalf of their clients, including making or guaranteeing loans to their clients for living expenses, because to do so would encourage clients to pursue lawsuits that might not otherwise be brought and because such assistance gives lawyers too great a financial stake in the litigation. These dangers do not warrant a prohibition on a lawyer lending a client court costs and litigation expenses, including the expenses of medical examination and the costs of obtaining and presenting evidence, because these advances are virtually indistinguishable from contingent fees and help ensure access to the courts. Similarly, an exception allowing lawyers representing indigent clients to pay court costs and litigation expenses regardless of whether these funds will be repaid is warranted.

Subsection (e) (3) provides another exception. A lawyer representing an indigent client who does not pay a fee may give the client gifts in the form of modest contributions toward basic necessities of life such as food, shelter, transportation, clothing, and medicine. If the gift may have consequences for the client, including, e.g., for receipt of government benefits, social services, or tax liability, the lawyer should consult with the client about such consequences. See Rule 1.4.

The subsection (e) (3) exception is narrow. Modest contributions towards basic necessities are allowed only in circumstances where it is unlikely to create conflicts of interest or invite abuse.

Financial assistance, including modest gifts pursuant to subsection (e) (3), may be provided even if the representation is eligible for fees under a fee-shifting statute. However, subsection (e) (3) does not permit lawyers to provide assistance in other contemplated or pending litigation in which the lawyer may eventually recover a fee, such as contingent-fee personal injury cases or cases in which fees may be available under a contractual fee-shifting provision, even if the lawyer does not eventually receive a fee.

Person Paying for a Lawyer's Services. Subsection (f) requires disclosure of the fact that the lawyer's services are being paid for by a third party. Such an arrangement must also conform to the requirements of Rule 1.6 concerning confidentiality and Rule 1.7 concerning conflict of interest. Where the client is a class, consent may be obtained on behalf of the class by court-supervised procedure.

Lawyers are frequently asked to represent a client under circumstances in which a third person will compensate the lawyer, in whole or in part. The third person might be a relative or friend, an indemnitor (such as a liability insurance company) or a co-client (such as a corporation sued along with one or more of its employees). Because third-party payers frequently have interests that differ from those of the client, including interests in minimizing the amount spent on the representation and in learning how the representation is progressing, lawyers are prohibited from accepting or continuing such representations

unless the lawyer determines that there will be no interference with the lawyer's independent professional judgment and there is informed consent from the client. See also Rule 5.4 (c) (prohibiting interference with a lawyer's professional judgment by one who recommends, employs or pays the lawyer to render legal services for another).

Sometimes, it will be sufficient for the lawyer to obtain the client's informed consent regarding the fact of the payment and the identity of the third-party payer. If, however, the fee arrangement creates a conflict of interest for the lawyer, then the lawyer must comply with Rule 1.7. The lawyer must also conform to the requirements of Rule 1.6 concerning confidentiality. Under Rule 1.7 (a), a conflict of interest exists if there is significant risk that the lawyer's representation of the client will be materially limited by the lawyer's own interest in the fee arrangement or by the lawyer's responsibilities to the third-party payer (for example, when the third-party payer is a co-client). Under Rule 1.7 (b), the lawyer may accept or continue the representation with the informed consent of each affected client, unless the conflict is nonconsentable under that subsection. Under Rule 1.7 (b), the informed consent must be confirmed in writing.

Aggregate Settlements. Differences in willingness to make or accept an offer of settlement are among the risks of common representation of multiple clients by a single lawyer. Under Rule 1.7, this is one of the risks that should be discussed before undertaking the representation, as part of the process of obtaining the clients' informed consent. In addition, Rule 1.2 (a) protects each client's right to have the final say in deciding whether to accept or reject an offer of settle-

ment and in deciding whether to enter a guilty or nolo contendere plea in a criminal case. The rule stated in this paragraph is a corollary of both these Rules and provides that, before any settlement offer or plea bargain is made or accepted on behalf of multiple clients, the lawyer must inform each of them about all the material terms of the settlement, including what the other clients will receive or pay if the settlement or plea offer is accepted. See also Rule 1.0 (f) (definition of informed consent). Lawyers representing a class of plaintiffs or defendants, or those proceeding derivatively, may not have a full client-lawyer relationship with each member of the class; nevertheless, such lawyers must comply with applicable rules regulating notification of class members and other procedural requirements designed to ensure adequate protection of the entire class.

Limiting Liability and Settling Malpractice Claims. Agreements prospectively limiting a lawyer's liability for malpractice are prohibited unless the client is independently represented in making the agreement because they are likely to undermine competent and diligent representation. Also, many clients are unable to evaluate the desirability of making such an agreement before a dispute has arisen, particularly if they are then represented by the lawyer seeking the agreement. This subsection does not, however, prohibit a lawyer from entering into an agreement with the client to arbitrate legal malpractice claims, provided such agreements are enforceable and the client is fully informed of the scope and effect of the agreement. Nor does this subsection limit the ability of lawyers to practice in the form of a limited-liability entity, where permitted by law, provided that each lawyer

remains personally liable to the client for his or her own conduct and the firm complies with any conditions required by law, such as provisions requiring client notification or maintenance of adequate liability insurance. Nor does it prohibit an agreement in accordance with Rule 1.2 that defines the scope of the representation, although a definition of scope that makes the obligations of representation illusory will amount to an attempt to limit liability.

Agreements settling a claim or a potential claim for malpractice are not prohibited by this Rule. Nevertheless, in view of the danger that a lawyer will take unfair advantage of an unrepresented client or former client, the lawyer must first advise such a person in writing of the appropriateness of independent representation in connection with such a settlement. In addition, the lawyer must give the client or former client a reasonable opportunity to find and consult independent counsel.

Acquiring Proprietary Interest in Litigation. Subsection (i) states the traditional general rule that lawyers are prohibited from acquiring a proprietary interest in litigation. Like subsection (e), the general rule, which has its basis in common-law champerty and maintenance, is designed to avoid giving the lawyer too great an interest in the representation. In addition, when the lawyer acquires an ownership interest in the subject of the representation, it will be more difficult for a client to discharge the lawyer if the client so desires. The Rule is subject to specific exceptions developed in decisional law and continued in these Rules. The exception for certain advances of the costs of litigation is set forth in subsection (e). In addition, subsection (i) sets forth excep-

tions for liens authorized by law to secure the lawyer's fees or expenses and contracts for reasonable contingent fees. The law of each jurisdiction determines which liens are authorized by law. These may include liens granted by statute, liens originating in common law and liens acquired by contract with the client. When a lawyer acquires by contract a security interest in property other than that recovered through the lawyer's efforts in the litigation, such an acquisition is a business or financial transaction with a client and is governed by the requirements of subsection (a). Contracts for contingent fees in civil cases are governed by Rule 1.5.

Client-Lawyer Sexual Relationships. The relationship between lawyer and client is a fiduciary one in which the lawyer occupies the highest position of trust and confidence. The relationship is almost always unequal; thus, a sexual relationship between lawyer and client can involve unfair exploitation of the lawyer's fiduciary role, in violation of the lawyer's basic ethical obligation not to use the trust of the client to the client's disadvantage. In addition, such a relationship presents a significant danger that, because of the lawyer's emotional involvement, the lawyer will be unable to represent the client without impairment of the exercise of independent professional judgment. Moreover, a blurred line between the professional and personal relationships may make it difficult to predict to what extent client confidences will be protected by the attorney-client evidentiary privilege, since client confidences are protected by privilege only when they are imparted in the context of the client-lawyer relationship. Because of the significant danger of harm to client interest and because the client's own emotional

involvement renders it unlikely that the client could give adequate informed consent, this Rule prohibits the lawyer from having sexual relations with a client regardless of whether the relationship is consensual and regardless of the absence of prejudice to the client.

Sexual relationships that predate the client-lawyer relationship are not prohibited. Issues relating to the exploitation of the fiduciary relationship and client dependency are diminished when the sexual relationship existed prior to the commencement of the client-lawyer relationship. However, before proceeding with the representation in these circumstances, the lawyer should consider whether the lawyer's ability to represent the client will be materially limited by the relationship. See Rule 1.7 (a) (2).

Imputation of Prohibitions. Under subsection (k), a prohibition on conduct by an individual lawyer in subsections (a) through (i) also applies to all lawyers associated in a firm with the personally prohibited lawyer. The prohibition set forth in subsection (j) is personal and is not applied to associated lawyers.

AMENDMENT NOTE: The changes to this rule and its commentary permit, in limited circumstances, a lawyer representing an indigent client on a pro bono basis and a lawyer representing a client through the public defender's office to provide modest gifts to the client to pay for basic living expenses.

Rule 5.5. Unauthorized Practice of Law

(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so. The practice of law in this jurisdiction is defined in Practice

Book Section 2-44A. Conduct described in subsections (c) and (d) in another jurisdiction shall not be deemed the unauthorized practice of law for purposes of this subsection (a).

(b) A lawyer who is not admitted to practice in this jurisdiction, shall not:

(1) except as authorized by law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or

(2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

(c) A lawyer admitted in another United States jurisdiction which accords similar privileges to Connecticut lawyers in its jurisdiction, and provided that the lawyer is not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction, that:

(1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;

(2) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the lawyer, or a person the lawyer is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized;

(3) are in or reasonably related to a pending or potential mediation or other alternative dispute resolution proceeding in this or another jurisdiction, with respect to a matter that is substantially related to, or arises in, a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires *pro hac vice* admission; or

(4) are not within subdivisions (c) (2) or (c) (3) and arise out of or are substantially related to the legal services provided to an existing client of the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice.

(d) A lawyer admitted in another United States jurisdiction, who is in good standing in each jurisdiction in which he or she has been admitted, or who has taken retirement status or otherwise left the active practice of law while in good standing in another jurisdiction, may participate in the provision of uncompensated pro bono publico legal services in Connecticut where such services are offered under the supervision of an organized legal aid society or state or local bar association project.

[(d)**]**(e) A lawyer admitted to practice in another jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services in this jurisdiction that:

(1) the lawyer is authorized to provide pursuant to Practice Book Section 2-15A and the lawyer is an authorized house counsel as provided in that section; or

(2) the lawyer is authorized by federal or other law or rule to provide in this jurisdiction.

[(e)**]**(f) A lawyer not admitted to practice in this jurisdiction and authorized by the provisions of this Rule to engage in providing legal services on a temporary basis in this jurisdiction is thereby subject to the disciplinary rules of this jurisdiction with respect to the activities in this jurisdiction.

[(f)](g) A lawyer desirous of obtaining the privileges set forth in subsections (c) (3) or (4):

(1) shall notify the statewide bar counsel as to each separate matter prior to any such representation in Connecticut,

(2) shall notify the statewide bar counsel upon termination of each such representation in Connecticut, and (3) shall pay such fees as may be prescribed by the Judicial Branch.

COMMENTARY: A lawyer may practice law only in a jurisdiction in which the lawyer is authorized to practice. A lawyer may be admitted to practice law in a jurisdiction on a regular basis or may be authorized by court rule or order or by law to practice for a limited purpose or on a restricted basis. Subsection (a) applies to unauthorized practice of law by a lawyer, whether through the lawyer's direct action or by the lawyer's assisting another person. For example, a lawyer may not assist a person in practicing law in violation of the rules governing professional conduct in that person's jurisdiction.

A lawyer may provide professional advice and instruction to nonlawyers whose employment requires knowledge of the law; for example, claims adjusters, employees of financial or commercial institutions, social workers, accountants and persons employed in government agencies. Lawyers also may assist independent nonlawyers, such as paraprofessionals, who are authorized by the law of a jurisdiction to provide particular law-related services. In addition, a lawyer may counsel nonlawyers who wish to proceed as self-represented parties.

Other than as authorized by law or this Rule, a lawyer who is not admitted to practice generally in this jurisdiction violates subsection

(b) (1) if the lawyer establishes an office or other systematic and continuous presence in this jurisdiction for the practice of law. Presence may be systematic and continuous even if the lawyer is not physically present here. Such a lawyer must not hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction. See also Rules 7.1 (a) and 7.5 (b). A lawyer not admitted to practice in this jurisdiction who engages in repeated and frequent activities of a similar nature in this jurisdiction such as the preparation and/or recording of legal documents (loans and mortgages) involving residents or property in this state may be considered to have a systematic and continuous presence in this jurisdiction that would not be authorized by this Rule and could, thereby, be considered to constitute unauthorized practice of law.

There are occasions in which a lawyer admitted to practice in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction under circumstances that do not create an unreasonable risk to the interests of their clients, the public or the courts. Subsection (c) identifies four such circumstances. The fact that conduct is not so identified does not imply that the conduct is or is not authorized. With the exception of subdivisions **[**(d)**]**(e) (1) and **[**(d)**]**(e) (2), this Rule does not authorize a lawyer to establish an office or other systematic and continuous presence in this jurisdiction without being admitted to practice generally here. There is no single test to determine whether a lawyer's services are provided on a ''temporary basis'' in this jurisdiction and may, therefore, be permissible under

subsection (c). Services may be ''temporary'' even though the lawyer provides services in this jurisdiction for an extended period of time, as when the lawyer is representing a client in a single lengthy negotiation or litigation.

Subsections (c) and (d) apply**[**ies**]** to lawyers who are admitted to practice law in any United States jurisdiction, which includes the District of Columbia and any state, territory or commonwealth of the United States. The word ''admitted'' in subsections (c) and (d) contemplates that the lawyer is authorized to practice in the jurisdiction in which the lawyer is admitted and excludes a lawyer who, while technically admitted, is not authorized to practice, because, for example, the lawyer is in an inactive status.

Subdivision (c) (1) recognizes that the interests of clients and the public are protected if a lawyer admitted only in another jurisdiction associates with a lawyer licensed to practice in this jurisdiction. For this subdivision to apply, however, the lawyer admitted to practice in this jurisdiction must actively participate in and share responsibility for the representation of the client.

Lawyers not admitted to practice generally in a jurisdiction may be authorized by law or order of a tribunal or an administrative agency to appear before the tribunal or agency. This authority may be granted pursuant to formal rules governing admission *pro hac vice* or pursuant to informal practice of the tribunal or agency. Under subdivision (c) (2), a lawyer does not violate this Rule when the lawyer appears before a tribunal or agency pursuant to such authority. To the extent that a court rule or other law of this jurisdiction requires a lawyer who is not

admitted to practice in this jurisdiction to obtain admission *pro hac vice* before appearing before a tribunal or administrative agency, this Rule requires the lawyer to obtain that authority.

Subdivision (c) (2) also provides that a lawyer rendering services in this jurisdiction on a temporary basis does not violate this Rule when the lawyer engages in conduct in anticipation of a proceeding or hearing in a jurisdiction in which the lawyer is authorized to practice law or in which the lawyer reasonably expects to be admitted *pro hac vice*. Examples of such conduct include meetings with the client, interviews of potential witnesses, and the review of documents. Similarly, a lawyer admitted only in another jurisdiction may engage in conduct temporarily in this jurisdiction in connection with pending litigation in another jurisdiction in which the lawyer is or reasonably expects to be authorized to appear, including taking depositions in this jurisdiction.

When a lawyer has been or reasonably expects to be admitted to appear before a court or administrative agency, subdivision (c) (2) also permits conduct by lawyers who are associated with that lawyer in the matter, but who do not expect to appear before the court or administrative agency. For example, subordinate lawyers may conduct research, review documents, and attend meetings with witnesses in support of the lawyer responsible for the litigation.

Subdivision (c) (3) permits a lawyer admitted to practice law in another jurisdiction to perform services on a temporary basis in this jurisdiction if those services are in or reasonably related to a pending or potential mediation or other alternative dispute resolution proceeding

in this or another jurisdiction, if the services are with respect to a matter that is substantially related to, or arises out of, a jurisdiction in which the lawyer is admitted to practice. The lawyer, however, must obtain admission *pro hac vice* in the case of a court-annexed arbitration or mediation or otherwise if court rules or law so require.

Subdivision (c) (4) permits a lawyer admitted in another jurisdiction to provide certain legal services on a temporary basis in this jurisdiction if they arise out of or are substantially related to the lawyer's practice in a jurisdiction in which the lawyer is admitted but are not within subdivisions (c) (2) or (c) (3). These services include both legal services and services that nonlawyers may perform but that are considered the practice of law when performed by lawyers.

Subdivision (c) (3) requires that the services be with respect to a matter that is substantially related to, or arises out of, a jurisdiction in which the lawyer is admitted. A variety of factors may evidence such a relationship. However, the matter, although involving other jurisdictions, must have a significant connection with the jurisdiction in which the lawyer is admitted to practice. A significant aspect of the lawyer's work might be conducted in that jurisdiction or a significant aspect of the matter may involve the law of that jurisdiction. The necessary relationship might arise when the client's activities and the resulting legal issues involve multiple jurisdictions. Subdivision (c) (4) requires that the services provided in this jurisdiction in which the lawyer is not admitted to practice be for (1) an existing client, i.e., one with whom the lawyer has a previous relationship and not arising solely out of a Connecticut based matter and (2) arise out of or be substantially

related to the legal services provided to that client in a jurisdiction in which the lawyer is admitted to practice. Without both, the lawyer is prohibited from practicing law in the jurisdiction in which the lawyer is not admitted to practice.

For purposes of subsection (d), an attorney in ''good standing'' is one who: (1) has been admitted to practice law in any United States jurisdiction; (2) is not suspended or disbarred in any other jurisdiction; (3) has never resigned or retired from the practice of law while subject to discipline or disciplinary proceedings in any other jurisdiction; (4) has not been placed on inactive status while subject to discipline or disciplinary proceedings in any other jurisdiction; and (5) is not currently subject to disciplinary proceedings in any other jurisdiction.

Subdivision **[**(d)**]**(e) (2) recognizes that a lawyer may provide legal services in a jurisdiction in which the lawyer is not licensed when authorized to do so by federal or other law, which includes statute, court rule, executive regulation or judicial precedent.

A lawyer who practices law in this jurisdiction pursuant to subsections (c), **[**or**]** (d) or (e) or otherwise is subject to the disciplinary authority of this jurisdiction. See Rule 8.5 (a).

In some circumstances, a lawyer who practices law in this jurisdiction pursuant to subsections (c), **[**or**]** (d) or (e) may have to inform the client that the lawyer is not licensed to practice law in this jurisdiction.

Subsections (c), **[**and**]** (d) and (e) do not authorize communications advertising legal services in this jurisdiction by lawyers who are admitted to practice in other jurisdictions. Whether and how lawyers may

communicate the availability of their services in this jurisdiction is governed by Rules 7.1 to 7.5.

AMENDMENT NOTE: The changes to this rule create a new category of permissible practice that would, under limited circumstances, permit attorneys who are licensed and in good standing in other jurisdictions to engage in pro bono practice in Connecticut.

Rule 8.4. Misconduct

It is professional misconduct for a lawyer to:

(1) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(2) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

(3) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(4) Engage in conduct that is prejudicial to the administration of justice;

(5) State or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; **[**or**]**

(6) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law**[.]**; or

(7) Engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, color, ancestry, sex, pregnancy, religion, national origin, ethnicity, disability, status as a veteran, age, sexual orientation, gender identity, gender

expression or marital status in conduct related to the practice of law. This paragraph does not limit the ability of a lawyer to accept, decline or withdraw from a representation, or to provide advice, assistance or advocacy consistent with these Rules.

COMMENTARY: Lawyers are subject to discipline when they violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so or do so through the acts of another, as when they request or instruct an agent to do so on the lawyer's behalf. Subdivision (1), however, does not prohibit a lawyer from advising a client concerning action the client is legally entitled to take.

Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of wilful failure to file an income tax return. However, some kinds of offenses carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving ''moral turpitude.'' That concept can be construed to include offenses concerning some matters of personal morality, such as adultery and comparable offenses, which have no specific connection to fitness for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust, or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation. Counseling or assisting a client with regard to conduct expressly permitted under Connecticut law is

not conduct that reflects adversely on a lawyer's fitness notwithstanding any conflict with federal or other law. Nothing in this commentary shall be construed to provide a defense to a presentment filed pursuant to Practice Book Section 2-41.

[A lawyer who, in the course of representing a client, knowingly manifests by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, violates subdivision (4) when such actions are prejudicial to the administration of justice. Legitimate advocacy respecting the foregoing factors does not violate subdivision (4).**]**

Discrimination and harassment in the practice of law undermine confidence in the legal profession and the legal system. Discrimination includes harmful verbal or physical conduct directed at an individual or individuals that manifests bias or prejudice on the basis of one or more of the protected categories. Not all conduct that involves consideration of these characteristics manifests bias or prejudice: there may be a legitimate nondiscriminatory basis for the conduct.

Harassment includes severe or pervasive derogatory or demeaning verbal or physical conduct. Harassment on the basis of sex includes unwelcome sexual advances, requests for sexual favors and other unwelcome verbal or physical conduct of a sexual nature.

The substantive law of antidiscrimination and antiharassment statutes and case law should guide application of paragraph (7), where applicable. Where the conduct in question is subject to federal or state antidiscrimination or antiharassment law, a lawyer's conduct does not violate paragraph (7) when the conduct does not violate such law.

Moreover, an administrative or judicial finding of a violation of state or federal antidiscrimination or antiharassment laws does not alone establish a violation of paragraph (7).

A lawyer's conduct does not violate paragraph (7) when the conduct in question is protected under the first amendment to the United States constitution or article first, § 4 of the Connecticut constitution.

Conduct related to the practice of law includes representing clients; interacting with witnesses, coworkers, court personnel, lawyers and others while engaged in the practice of law; operating or managing a law firm or law practice; and participating in bar association, business or professional activities or events in connection with the practice of law. Lawyers may engage in conduct undertaken to promote diversity, equity and inclusion without violating this Rule by, for example, implementing initiatives aimed at recruiting, hiring, retaining and advancing diverse employees or sponsoring diverse law student organizations.

A trial judge's finding that peremptory challenges were exercised on a discriminatory basis does not alone establish a violation of paragraph (7). Moreover, no disciplinary violation may be found where a lawyer exercises a peremptory challenge on a basis that is permitted under substantive law. A lawyer does not violate paragraph (7) by limiting the scope or subject matter of the lawyer's practice or by limiting the lawyer's practice to members of a particular segment of the population in accordance with these rules and other law. A lawyer may charge and collect reasonable fees and expenses for a representation. Rule 1.5 (a). Lawyers also should be mindful of their professional obligations under Rule 6.1 to provide legal services to those who

are unable to pay, and their obligation under Rule 6.2 not to avoid appointments from a tribunal except for good cause. See Rule 6.2 (1), (2) and (3). A lawyer's representation of a client does not constitute an endorsement by the lawyer of the client's views or activities. See Rule 1.2 (b).

[A lawyer may refuse to comply with an obligation imposed by law upon a good faith belief that no valid obligation exists.**]** The provisions of Rule 1.2 (d) concerning a good faith challenge to the validity, scope, meaning or application of the law apply to challenges of legal regulation of the practice of law.

Lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the professional role of a lawyer. The same is true of abuse of positions of private trust, such as trustee, executor, administrator, guardian, agent and officer, director or manager of a corporation or other organization.

AMENDMENT NOTE: The amendment to this rule defines discrimination, harassment and sexual harassment as professional misconduct.

AMENDMENTS TO THE GENERAL PROVISIONS OF THE SUPERIOR COURT RULES

Sec. 2-8. Qualifications for Admission

To entitle an applicant to admission to the bar, except under Section 2-13 of these rules, the applicant must satisfy the bar examining committee that:

(1) The applicant is a citizen of the United States or an alien lawfully residing in the United States, which shall include an individual authorized to work lawfully in the United States.

(2) The applicant is not less than eighteen years of age.

(3) The applicant is a person of good moral character, is fit to practice law, and has either passed an examination in professional responsibility, which has been approved or required by the committee, or has completed a course in professional responsibility in accordance with the regulations of the committee. Any inquiries or procedures used by the bar examining committee that relate to **[**physical or mental disability**]** the health diagnosis, treatment, or drug or alcohol dependence of an applicant must be narrowly tailored and necessary to a determination of the applicant's current fitness to practice law, in accordance with the Americans with Disabilities Act and amendment twenty-one of the Connecticut constitution, and conducted in a manner consistent with privacy rights afforded under the federal and state constitutions or other applicable law.

(4) The applicant has met the educational requirements as may be set, from time to time, by the bar examining committee.

(5) The applicant has filed with the administrative director of the bar examining committee an application to take the examination and for admission to the bar, all in accordance with these rules and the regulations of the committee, and has paid such application fee as the committee shall from time to time determine.

(6) The applicant has passed an examination in law in accordance with the regulations of the bar examining committee.

(7) The applicant has complied with all of the pertinent rules and regulations of the bar examining committee.

(8) As an alternative to satisfying the bar examining committee that the applicant has met the committee's educational requirements, the applicant who meets all the remaining requirements of this section may, upon payment of such investigation fee as the committee shall from time to time determine, substitute proof satisfactory to the committee that: (A) the applicant has been admitted to practice before the highest court of original jurisdiction in one or more states, the District of Columbia or the Commonwealth of Puerto Rico or in one or more district courts of the United States for ten or more years and at the time of filing the application is a member in good standing of such a bar; (B) the applicant has actually practiced law in such a jurisdiction for not less than five years during the seven year period immediately preceding the filing date of the application; and (C) the applicant intends, upon a continuing basis, actively to practice law in Connecticut and to devote the major portion of the applicant's working time to the practice of law in Connecticut.

COMMENTARY: The change in paragraph (3) replaces language referencing the disability of an applicant with language that is more neutral and inclusive and is consistent with previous changes made to Section 2-9 (b).

Sec. 2-13A. Military Spouse Temporary Licensing

(a) **Qualifications.** An applicant who meets all of the following requirements listed in subdivisions (1) through (11) of this subsection may be temporarily licensed and admitted to the practice of law in

Connecticut, upon approval of the bar examining committee. The applicant:

(1) is the spouse of an active duty service member of the United States Army, Navy, Air Force, Marine Corps or Coast Guard and that service member is or will be stationed in Connecticut due to military orders;

(2) is licensed to practice law before the highest court in at least one state or territory of the United States or in the District of Columbia;

(3) is currently an active member in good standing in every jurisdiction to which the applicant has been admitted to practice, or has resigned or become inactive or had a license administratively suspended or revoked while in good standing from every jurisdiction without any pending disciplinary actions;

(4) is not currently subject to lawyer discipline or the subject of a pending disciplinary matter in any other jurisdiction;

(5) meets the educational qualifications required to take the examination in Connecticut;

(6) possesses the good moral character and fitness to practice law required of all applicants for admission in Connecticut;

(7) has passed an examination in professional responsibility **[**administered under the auspices of the bar examining committee**]** or has completed a course in professional responsibility in accordance with the regulation of the bar examining committee;

(8) is or will be physically residing in Connecticut due to the service member's military orders;

(9) has not failed the Connecticut bar examination within the past five years;

(10) has not had an application for admission to the Connecticut bar or the bar of any state, the District of Columbia or United States territory denied on character and fitness grounds; and

(11) has not failed to achieve the Connecticut scaled score on the uniform bar examination administered within any jurisdiction within the past five years.

(b) **Application Requirements.** Any applicant seeking a temporary license to practice law in Connecticut under this section shall file a written application and payment of such fee as the bar examining committee shall from time to time determine. Such application, duly verified, shall be filed with the administrative director of the committee and shall set forth the applicant's qualifications as hereinbefore provided. In addition, the applicant shall file with the committee the following:

(1) a copy of the applicant's military spouse dependent identification and documentation evidencing a spousal relationship with the service member;

(2) a copy of the service member's military orders to a military installation in Connecticut or a letter from the service member's command verifying that the requirement in subsection (a) (8) of this section is met;

(3) certificate(s) of good standing from the highest court of each state, the District of Columbia or United States territory to which the applicant has been admitted, or proof that the applicant has resigned,

or become inactive or had a license administratively suspended or revoked while in good standing;

(4) an affidavit from the applicant, certifying whether such applicant has a grievance pending against him or her, has ever been reprimanded, suspended, placed on inactive status, disbarred, or has ever resigned from the practice of law, and, if so setting forth the circumstances concerning such action; and

(5) affidavits from two attorneys who personally know the applicant certifying to his or her good moral character and fitness to practice law.

(c) **Duration and Renewal.**

(1) A temporary license to practice law issued under this rule will be valid for three years provided that the temporarily licensed attorney remains a spouse of the service member and resides in Connecticut due to military orders or continues to reside in Connecticut due to the service member's immediately subsequent assignment specifying that dependents are not authorized to accompany the service member. The temporary license may be renewed for one additional two year period.

(2) A renewal application must be submitted with the appropriate fee as established by the bar examining committee and all other documentation required by the bar examining committee, including a copy of the service member's military orders. Such renewal application shall be filed not less than thirty days before the expiration of the original three year period.

(3) A temporarily licensed attorney who wishes to become a permanent member of the bar of Connecticut may apply for admission by examination or for admission without examination for the standard

application fee minus the application fee paid to the committee for the application for temporary license, not including any fees for renewal.

(d) **Termination.**

(1) Termination of Temporary License. A temporary license shall terminate, and a temporarily licensed attorney shall cease the practice of law in Connecticut pursuant to that admission, unless otherwise authorized by these rules, thirty days after any of the following events:

(A) the service member's separation or retirement from military service;

(B) the service member's permanent relocation to another jurisdiction, unless the service member's immediately subsequent assignment specifies that the dependents are not authorized to accompany the service member, in which case the attorney may continue to practice law in Connecticut as provided in this rule until the service member departs Connecticut for a permanent change of station where the presence of dependents is authorized;

(C) the attorney's permanent relocation outside of the state of Connecticut for reasons other than the service member's relocation;

(D) upon the termination of the attorney's spousal relationship to the service member;

(E) the attorney's failure to meet the annual licensing requirements for an active member of the bar of Connecticut;

(F) the attorney's request;

(G) the attorney's admission to practice law in Connecticut by examination or without examination;

(H) the attorney's denial of admission to the practice of law in Connecticut; or

(I) the death of the service member.

Notice of one of the events set forth in subsection (d) (1) must be filed with the bar examining committee by the temporarily licensed attorney within thirty days of such event. Notice of the event set forth in subsection (d) (1) (I) must be filed with the committee by the temporarily licensed attorney within thirty days of the event, and the attorney shall cease the practice of law within one year of the event. Failure to provide such notice by the temporarily licensed attorney shall be a basis for discipline pursuant to the Rules of Professional Conduct for attorneys.

(2) Notice of Termination of Temporary License. Upon receipt of the notice required by subsection (d) (1), the bar examining committee shall forward a request to the statewide bar counsel that the license under this chapter be revoked. Notice of the revocation shall be mailed by the statewide bar counsel to the temporarily licensed attorney.

(3) Notices Required. At least sixty days before termination of the temporary admission, or as soon as possible under the circumstances, the attorney shall:

(A) file in each matter pending before any court, tribunal, agency or commission a notice that the attorney will no longer be involved in the case; and

(B) provide written notice to all clients receiving representation from the attorney that the attorney will no longer represent them.

(e) **Responsibilities and Obligations.**

An attorney temporarily licensed under this section shall be subject to all responsibilities and obligations of active members of the Connecticut bar, and shall be subject to the jurisdiction of the courts and agencies of Connecticut, and shall be subject to the laws and rules of Connecticut governing the conduct and discipline of attorneys to the same extent as an active member of the Connecticut bar. The attorney shall maintain participation in a mentoring program provided by a state or local bar association in the state of Connecticut.

COMMENTARY: The change in subsection (a) (7) clarifies that while there is an ethics requirement for temporary licensing and bar admission under this section, the bar examining committee does not administer the Multistate Professional Responsibility Examination (MPRE). This change is consistent with amendments made in 2021 to Sections 2-8 and 2-13, which were effective January 1, 2021.

Sec. 2-27. Clients' Funds; [Lawyer] Attorney Registration

(a) Consistent with the requirement of Rule 1.15 of the Rules of Professional Conduct, each **[**lawyer**]** attorney or law firm shall maintain, separate from the **[**lawyer's**]** attorney's or the firm's personal funds, one or more accounts accurately reflecting the status of funds handled by the **[**lawyer**]** attorney or firm as fiduciary or attorney, and shall not use such funds for any unauthorized purpose.

(b) Each **[**lawyer**]** attorney or law firm maintaining one or more trust accounts as defined in Rule 1.15 of the Rules of Professional Conduct and Section 2-28 (b) shall keep records of the maintenance and disposition of all funds of clients or of third persons held by the **[**lawyer**]**

attorney or firm in a fiduciary capacity from the time of receipt to the time of final distribution. Each **[**lawyer**]** attorney or law firm shall retain the records required by Rule 1.15 of the Rules of Professional Conduct for a period of seven years after termination of the representation.

(c) Such books of account and statements of reconciliation, and any other records required to be maintained pursuant to Rule 1.15 of the Rules of Professional Conduct, shall be made available upon request of the Statewide Grievance Committee or its counsel, or the disciplinary counsel for review, examination or audit upon receipt of notice by the Statewide Grievance Committee of an overdraft notice as provided by Section 2-28 (f). Upon the filing of a grievance complaint or a finding of probable cause, such records shall be made available upon request of the Statewide Grievance Committee, its counsel or the disciplinary counsel for review or audit.

(d) Each **[**lawyer**]** attorney shall register with the Statewide Grievance Committee, on a form devised by the committee, the address of the **[**lawyer's**]** attorney's office or offices maintained for the practice of law, the **[**lawyer**]** attorney's office e-mail address and business telephone number, the name and address of every financial institution with which the **[**lawyer**]** attorney maintains any account in which the funds of more than one client are kept and the identification number of any such account. Such registrations will be made on an annual basis and at such time as the **[**lawyer**]** attorney changes his or her address or addresses or location or identification number of any such trust account in which the funds of more than one client are kept. The registration forms filed pursuant to this subsection and pursuant to

Section 2-26 shall not be public; however, all information obtained by the Statewide Grievance Committee from these forms shall be public, except the following: trust account identification numbers; the **[**lawyer's**]** attorney's home address, unless no office address is registered and then only if the home address is part of the public record of a grievance complaint as defined in Section 2-50 or the attorney uses the attorney's personal juris number to appear in a matter in this state; the **[**lawyer's**]** attorney's office e-mail address; and the **[**lawyer's**]** attorney's birth date. Unless otherwise ordered by the court, all nonpublic information obtained from these forms shall be available only to the Statewide Grievance Committee and its counsel, the reviewing committees, the grievance panels and their counsel, the bar examining committee, the standing committee on recommendations for admission to the bar, disciplinary counsel, the client security fund committee and its counsel, a judge of the Superior Court, a judge of the United States District Court for the District of Connecticut, any grievance committee or other disciplinary authority of the United States District Court for the District of Connecticut or, with the consent of the **[**lawyer**]** attorney, to any other person. In addition, the trust account identification numbers on the registration forms filed pursuant to Section 2-26 and this section shall be available to the organization designated by the judges of the Superior Court to administer the IOLTA program pursuant to Rule 1.15 of the Rules of Professional Conduct. The registration requirements of this subsection shall not apply to judges of the Supreme, Appellate or Superior Courts, judge trial referees,

family support magistrates, federal judges, federal magistrate judges, federal administrative law judges or federal bankruptcy judges.

(e) The Statewide Grievance Committee or its counsel may conduct random inspections and audits of accounts maintained pursuant to Rule 1.15 of the Rules of Professional Conduct to determine whether such accounts are in compliance with the rule and this section. If any random inspection or audit performed under this subsection discloses an apparent violation of this section or the Rules of Professional Conduct, the matter may be referred to a grievance panel for further investigation or to the disciplinary counsel for presentment to the Superior Court. Any **[**lawyer**]** attorney whose accounts are selected for inspection or audit under this section shall fully cooperate with the inspection or audit, which cooperation shall not be construed to be a violation of Rule 1.6 (a) of the Rules of Professional Conduct. Any records, documents or information obtained or produced pursuant to a random inspection or audit shall remain confidential unless and until a presentment is initiated by the disciplinary counsel alleging a violation of Rule 1.15 of the Rules of Professional Conduct or of this section, or probable cause is found by the grievance panel, the Statewide Grievance Committee or a reviewing committee. Contemporaneously with the commencement of a presentment or the filing of a grievance complaint, notice shall be given in writing by the Statewide Grievance Committee to any client or third person whose identity may be publicly disclosed through the disclosure of records obtained or produced in accordance with this subsection. Thereafter, public disclosure of such records shall be subject to the client or third person having thirty

days from the issuance of the notice to seek a court order restricting publication of any such records disclosing confidential information. During the thirty day period, or the pendency of any such motion, any document filed with the court or as part of a grievance record shall refer to such clients or third persons by pseudonyms or with appropriate redactions, unless otherwise ordered by the court.

(f) Violation of subsection (a), (b) or (c) of this section shall constitute misconduct. An attorney who fails to register in accordance with subsection (d) shall be administratively suspended from the practice of law in this state pursuant to Section 2-27B.

COMMENTARY: The changes to this section make it clear that it constitutes misconduct for an attorney or law firm to fail to maintain one or more accounts separate from the attorney or firm's personal funds; keep and maintain records required for one or more trust accounts; and make such books of account and statements of reconciliation, and any other records required to be maintained, available as required for review and audit. The additional change in subsection (f) establishes that an attorney who fails to register in accordance with subsection (d) of this section shall be administratively suspended from the practice of law in this state pursuant to Section 2-27B.

Attorneys are required to register the office address(es) where the attorney practices law and the attorney's home address. The attorney's office address is public information and is the address where the Judicial Branch interacts with the attorney. Generally, an attorney's home address is not public information. When an attorney fails to register an office address, however, the Judicial Branch interacts with

the attorney by using the attorney's home address. These interactions may result in the attorney's home address becoming publicly available or displayed online. For example, if an attorney has not registered an office address and the attorney is the subject of a grievance complaint, then the Statewide Grievance Committee mails the complaint to the attorney's home address, and that notice and any other documents related to the complaint become part of the record. The record is available to the Complainant at any time, and, if probable cause of misconduct is found, to the public. See Practice Book Section 2-50. Also, when an attorney appears in a matter using the attorney's personal juris number, the court uses the address registered by the attorney both to interact with the attorney and to display online via the Judicial Branch case lookup application. If the attorney fails to register an office address, then the address used by the court and displayed online will be the attorney's home address.

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, elected

constitutional officers, 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 organization 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 or approved by the state bar examining committee, 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 or approved by the state bar examining committee, 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 and one hour for each two hours of preparation.

(7) By serving as a judge or coach for a moot court or mock trial course or competition that is part of the curriculum at or sanctioned by a law school accredited by the American Bar Association or approved by the state bar examining committee.

(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. Credit for the activity listed in subsection (b) (7) shall be based upon the actual judging or coaching time, up to four hours for each activity per year. 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 calendar year.

(3) Credit for the writing and publication of articles shall be based on the actual time required for both researching and drafting. 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 an **[**lawyer**]** attorney; (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. Such records shall be made available to the Statewide Grievance Committee or its counsel, the minimum continuing legal education commission, or the disciplinary counsel upon request.

[(e) Violation of this section shall constitute misconduct.**]**

(e) Nothing in this section shall be construed to allow the Statewide Grievance Committee or its counsel, the minimum continuing legal education commission, or the disciplinary counsel to conduct random

audits solely to determine whether an attorney is in compliance with this section.

[(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.**]**

(f) An attorney who fails to comply with the minimum continuing legal education requirement shall be administratively suspended from the practice of law in this state pursuant to Section 2-27B.

(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—2022: This revision allows for the administrative suspension of an attorney who fails to comply with the minimum continuing legal education (MCLE) requirements.

(NEW) Sec. 2-27B. Enforcement of Attorney Registration and Minimum Continuing Legal Education; Administrative Suspension

(a) The Statewide Grievance Committee shall send a notice to each attorney who has not registered pursuant to Section 2-27 (d), or who has not completed minimum continuing legal education pursuant to Section 2-27A, that the attorney's license to practice law in this state will be referred to the Superior Court for an administrative suspension of the attorney's license to practice law in this state unless by December 31 of the year in which the notice is sent such attorney provides proof to the Statewide Grievance Committee that for the noncomplying year the attorney has registered or completed minimum continuing legal education, or is exempt from minimum continuing legal education. The Statewide Grievance Committee shall submit to the clerk of the Superior Court for the Hartford Judicial District a list of attorneys who did not provide proof of compliance with attorney registration or minimum continuing legal education, or exemption from minimum continuing legal education. Upon order of the court, the attorneys so listed and referred to the clerk shall be deemed administratively suspended

from the practice of law in this state until such time as compliance has occurred and proof of same provided to the Statewide Grievance Committee, which suspension shall be effective upon publication of the list in the Connecticut Law Journal. An administrative suspension of an attorney for failure to comply with attorney registration or minimum continuing legal education shall not be considered discipline, but an attorney who is placed on administrative suspension for such failure shall be ineligible to practice law as an attorney admitted to practice in this state, and shall not be considered in good standing pursuant to Section 2-65 of these rules until such time as proof of compliance is provided to the Statewide Grievance Committee.

(b) An attorney aggrieved by an order placing the attorney on administrative suspension for failing to comply with Sections 2-27 (d) or 2-27A may make an application to the Superior Court to have the order vacated, by filing the application with the Superior Court for the Hartford Judicial District within thirty days of the date that the order is published, and mailing a copy of the same by certified mail, return receipt requested, to the Statewide Grievance Committee. The application shall set forth the reasons why the application should be granted. The court shall schedule a hearing on the application, which shall be limited to whether good cause exists to vacate the suspension order.

(c) The notice required by this section shall be sent by regular mail to the last address registered by the attorney pursuant to Section 2-26 and Section 2-27 (d) and to any e-mail address on record with the Judicial Branch.

COMMENTARY: This new section provides for procedures and establishes requirements for notice from the Statewide Grievance Committee when an attorney fails to register or to comply with the minimum continuing legal education (MCLE) requirements. It specifies the process for administrative suspension of attorneys who fail to provide proof of compliance with registration or MCLE requirements before December 31 of the year in which the notice was sent by the Statewide Grievance Committee. This section also provides a procedure by which an aggrieved attorney may apply to have the order of administrative suspension vacated.

Sec. 2-35. Action by Statewide Grievance Committee or Reviewing Committee

(a) Upon receipt of the record from a grievance panel, the Statewide Grievance Committee may assign the case to a reviewing committee which shall consist of at least three members of the Statewide Grievance Committee, at least one third of whom are not attorneys. The Statewide Grievance Committee may, in its discretion, reassign the case to a different reviewing committee. The committee shall regularly rotate membership on reviewing committees and assignments of complaints from the various grievance panels. An attorney who maintains an office for the practice of law in the same judicial district as the respondent may not sit on the reviewing committee for that case.

(b) The Statewide Grievance Committee and the reviewing committee shall have the power to issue a subpoena to compel any person to appear before it to testify in relation to any matter deemed by the Statewide Grievance Committee or the reviewing committee to be

relevant to the complaint and to produce before it for examination any books or papers which, in its judgment, may be relevant to such complaint. Any such testimony shall be on the record.

(c) If the grievance panel determined that probable cause exists that the respondent is guilty of misconduct, the Statewide Grievance Committee or the reviewing committee shall hold a hearing on the complaint. If the grievance panel determined that probable cause does not exist, but filed the matter with the Statewide Grievance Committee because the complaint alleges that a crime has been committed, the Statewide Grievance Committee or the reviewing committee shall review the determination of no probable cause, take evidence if it deems it appropriate and, if it determines that probable cause does exist, shall take the following action: (1) if the Statewide Grievance Committee reviewed the grievance panel's determination, it shall hold a hearing concerning the complaint or assign the matter to a reviewing committee to hold the hearing; or (2) if a reviewing committee reviewed the grievance panel's determination, it shall hold a hearing concerning the complaint or refer the matter to the Statewide Grievance Committee which shall assign it to another reviewing committee to hold the hearing.

(d) Disciplinary counsel may add additional allegations of misconduct to the grievance panel's determination that probable cause exists in the following circumstances:

(1) Prior to the hearing before the Statewide Grievance Committee or the reviewing committee, disciplinary counsel may add additional

allegations of misconduct arising from the record of the grievance complaint or its investigation of the complaint.

(2) Following commencement of the hearing before the Statewide Grievance Committee or the reviewing committee, disciplinary counsel may only add additional allegations of misconduct for good cause shown and with the consent of the respondent and the Statewide Grievance Committee or the reviewing committee. Additional allegations of misconduct may not be added after the hearing has concluded.

(e) If disciplinary counsel determines that additional allegations of misconduct exist, it shall issue a written notice to the respondent and the Statewide Grievance Committee, which shall include, but not be limited to, the following: (1) a description of the factual allegation or allegations that were considered in rendering the determination; and (2) for each such factual allegation, an identification of the specific provision or provisions of the applicable rules governing attorney conduct considered in rendering the determination.

(f) The respondent shall be entitled to a period of not less than thirty days before being required to appear at a hearing to defend against any additional charges of misconduct filed by the disciplinary counsel.

(g) At least two of the same members of a reviewing committee shall be **[**physically**]** present at all hearings held by the reviewing committee. **[**Unless waived by the disciplinary counsel and the respondent, the remaining member of the reviewing committee shall obtain and review the transcript of each such hearing and shall participate in the committee's determination.**]** <u>If a member of the reviewing committee is absent for the hearing, the member's participation in the</u>

determination of the matter shall be waived unless the disciplinary counsel or the respondent object at the commencement of the hearing. If an objection is raised, then the absent member of the reviewing committee shall obtain and review the transcript of each such hearing and shall participate in the committee's determination. All hearings following a determination of probable cause shall be public and on the record.

(h) The complainant and respondent shall be entitled to be present at all hearings and other proceedings on the complaint at which testimony is given and to have counsel present. At all hearings, the respondent shall have the right to be heard in the respondent's own defense and by witnesses and counsel. The disciplinary counsel shall pursue the matter before the Statewide Grievance Committee or reviewing committee. The disciplinary counsel and the respondent shall be entitled to examine or cross-examine witnesses. At the conclusion of the evidentiary phase of a hearing, the complainant, the disciplinary counsel and the respondent shall have the opportunity to make a statement, either individually or through counsel. The Statewide Grievance Committee or reviewing committee may request oral argument.

(i) Within ninety days of the date the grievance panel filed its determination with the Statewide Grievance Committee pursuant to Section 2-32 (i), the reviewing committee shall render a final written decision dismissing the complaint, imposing sanctions and conditions as authorized by Section 2-37 or directing the disciplinary counsel to file a presentment against the respondent in the Superior Court and file it with the Statewide Grievance Committee. In a decision of the reviewing

committee directing the disciplinary counsel to file a presentment against the respondent, the reviewing committee may direct that the presentment include additional findings of misconduct beyond those set forth in the probable cause finding and the additional allegations of misconduct if the findings are supported by the record. Where there is a final decision dismissing the complaint, the reviewing committee may give notice in a written summary order to be followed by a full written decision. The reviewing committee's record in the case shall consist of a copy of all evidence it received or considered, including a transcript of any testimony heard by it, and its decision. The record shall also be sent to the Statewide Grievance Committee. The reviewing committee shall forward a copy of the final decision to the complainant, the disciplinary counsel, the respondent, and the grievance panel to which the complaint was forwarded. The decision shall be a matter of public record if there was a determination by a grievance panel, a reviewing committee or the Statewide Grievance Committee that there was probable cause that the respondent was guilty of misconduct. The reviewing committee may file a motion for extension of time not to exceed thirty days with the Statewide Grievance Committee which shall grant the motion only upon a showing of good cause. If the reviewing committee does not complete its action on a complaint within the time provided in this section, the Statewide Grievance Committee shall, on motion of the complainant or the respondent or on its own motion, inquire into the delay and determine the appropriate course of action. Enforcement of the final decision, including the publication of the notice of a reprimand pursuant to Section 2-54, shall be

stayed for thirty days from the date of the issuance to the parties of the final decision. In the event the respondent timely submits to the Statewide Grievance Committee a request for review of the final decision of the reviewing committee, such stay shall remain in full force and effect pursuant to Section 2-38 (b).

(j) If the reviewing committee finds probable cause to believe the respondent has violated the criminal law of this state, it shall report its findings to the chief state's attorney.

(k) Within thirty days of the issuance to the parties of the final decision by the reviewing committee, the respondent may submit to the Statewide Grievance Committee a request for review of the decision. No request for review may be submitted following a decision approving a proposed disposition filed pursuant to Section 2-82 (b) or (g). Any request for review submitted under this section must specify the basis for the request including, but not limited to, a claim or claims that the reviewing committee's findings, inferences, conclusions or decision is or are: (1) in violation of constitutional, rules of practice or statutory provisions; (2) in excess of the authority of the reviewing committee; (3) made upon unlawful procedure; (4) affected by other error of law; (5) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or (6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion and the specific basis for such claim or claims. For grievance complaints filed on or after January 1, 2004, the respondent shall serve a copy of the request for review on disciplinary counsel in accordance with Sections 10-12 through 10-17. Within fourteen

days of the respondent's submission of a request for review, disciplinary counsel may file a response. Disciplinary counsel shall serve a copy of the response on the respondent in accordance with Sections 10-12 through 10-17. No reply to the response shall be allowed.

(*l*) If, after its review of a complaint pursuant to this section that was forwarded to the Statewide Grievance Committee pursuant to Section 2-32 (i) (2), a reviewing committee agrees with a grievance panel's determination that probable cause does not exist that the attorney is guilty of misconduct and there has been no finding of probable cause by the Statewide Grievance Committee or a reviewing committee, the reviewing committee shall have the authority to dismiss the complaint within the time period set forth in subsection (e) of this section without review by the Statewide Grievance Committee. The reviewing committee shall file its decision dismissing the complaint with the Statewide Grievance Committee along with the record of the matter and shall send a copy of the decision to the complainant, the respondent, and the grievance panel to which the complaint was assigned.

(m) If the Statewide Grievance Committee does not assign a complaint to a reviewing committee, it shall have one hundred and twenty days from the date the panel's determination was filed with it to render a decision dismissing the complaint, imposing sanctions and conditions as authorized by Section 2-37 or directing the disciplinary counsel to file a presentment against the respondent. In a decision of the Statewide Grievance Committee directing the disciplinary counsel to file a presentment against the respondent, the Statewide Grievance Committee may direct that the presentment include additional findings

of misconduct beyond those set forth in the probable cause finding and the additional allegations of misconduct if the findings are supported by the record. The decision shall be a matter of public record. The failure of a reviewing committee to complete its action on a complaint within the period of time provided in this section shall not be cause for dismissal of the complaint. If the Statewide Grievance Committee finds probable cause to believe that the respondent has violated the criminal law of this state, it shall report its findings to the chief state's attorney.

COMMENTARY: The amendment to the first sentence of subsection (g) provides clarity and support for the Judicial Branch's efforts to conduct hearings remotely via a videoconferencing platform. The other amendment to subsection (g) provides that an objection regarding an absent reviewing committee member must be raised at the time of the hearing or it will be waived. If the respondent fails to appear at the hearing, the respondent cannot later claim that the waiver was invalid.

The amendments to subsections (i) and (m) codify longstanding practice permitting either the reviewing committee or the Statewide Grievance Committee to add findings of misconduct to a decision directing disciplinary counsel to file a presentment. Because the presentment directive is an interim order, the respondent has notice of the charges and the right to a de novo hearing before the court prior to final discipline being imposed, which protects any due process concerns.

The amendment to subsection (k) prohibits the right to request review or take an appeal of a disciplinary order that was consented

to by the respondent. The amendment expedites agreed upon discipline and ends unnecessary delay in issuing discipline ordered by the reviewing committee or Statewide Grievance Committee and in pursuing Section 2-82 (g) presentments before the Superior Court.

Sec. 2-36. Action by Statewide Grievance Committee on Request for Review

Within sixty days of the expiration of the thirty day period for the filing of a request for review under Section 2-35 (k), or, with regard to grievance complaints filed on or after January 1, 2004, within sixty days of the expiration of the fourteen day period for the filing of a response by disciplinary counsel to a request for review under that section, the Statewide Grievance Committee shall issue a written decision affirming the decision of the reviewing committee, dismissing the complaint, imposing sanctions and conditions as authorized by Section 2-37, directing the disciplinary counsel to file a presentment against the respondent in the Superior Court or referring the complaint to the same or a different reviewing committee for further investigation and a decision. Before issuing its decision, the Statewide Grievance Committee may, in its discretion, request oral argument. The Statewide Grievance Committee shall forward a copy of its decision to the complainant, the disciplinary counsel, the respondent, the reviewing committee and the grievance panel which investigated the complaint. The decision shall be a matter of public record. A decision of the Statewide Grievance Committee shall be issued only if the respondent has timely filed a request for review under Section 2-35 (k). A respondent may not appeal to the Superior Court a decision of the Statewide Grievance

Committee affirming the reviewing committee's decision directing the disciplinary counsel to file a presentment against the respondent.

COMMENTARY: The amendment codifies existing appellate law. A decision directing the disciplinary counsel to file a presentment against the respondent is an interim order of discipline that is presented to the court in a de novo hearing. In *Miniter* v. *Statewide Grievance Committee*, 122 Conn. App. 410, 998 A.2d 268, cert. denied, 298 Conn. 923, 4 A.3d 1228 (2010), the appellate court held that an appeal from an order of presentment was an impermissible interlocutory appeal, because the decision directing that a presentment be filed does not either terminate a separate and distinct proceeding, or terminate the rights of a party such that further proceedings could not affect them, as required by *State* v. *Curcio*, 191 Conn. 27, 463 A.2d 566 (1983). See *Rozbicki* v. *Statewide Grievance Committee*, 157 Conn. App. 613, 115 A.3d 532 (2015). The amendment expedites the most serious disciplinary cases to a hearing and final decision and prohibits unnecessary delay in pursuing presentments before the Superior Court.

Sec. 2-39. Reciprocal Discipline

(a) Upon being informed that a lawyer admitted to the Connecticut bar has resigned, been disbarred, suspended or otherwise disciplined, or placed on inactive disability status in another jurisdiction, and that said discipline or inactive disability status has not been stayed, the disciplinary counsel shall obtain a certified copy of the order and file it with the Superior Court for the judicial district wherein the lawyer maintains an office for the practice of law in this state, except that, if

the lawyer has no such office, the disciplinary counsel shall file the certified copy of the order from the other jurisdiction with the Superior Court for the judicial district of Hartford. No entry fee shall be required for proceedings hereunder.

(b) Upon receipt of a certified copy of the order, the court shall forthwith cause to be served upon the lawyer a copy of the order from the other jurisdiction and an order directing the lawyer to file within thirty days of service, with proof of service upon the disciplinary counsel, an answer admitting or denying the action in the other jurisdiction and setting forth, if any, reasons why commensurate action in this state would be unwarranted. Such certified copy will constitute prima facie evidence that the order of the other jurisdiction entered and that the findings contained therein are true.

(c) Upon the expiration of the thirty day period the court shall assign the matter for a hearing. After hearing, the court shall take commensurate action unless it is found that **[**any defense set forth in the answer**]** the respondent has **[**been**]** established by clear and convincing evidence that:

(1) The procedure in the predicate matter was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

(2) There was such infirmity of proof establishing the misconduct in the predicate matter as to give rise to the clear conviction that the court could not, consistent with its duty, accept as final the conclusion on that subject; or

(3) The discipline imposed would result in grave injustice; or

(4) The misconduct established in the predicate matter warrants substantially different discipline in this state; or

(5) The reason for the original transfer to inactive disability status no longer exists.

(d) Notwithstanding the above, a reciprocal discipline action need not be filed if the conduct giving rise to discipline in another jurisdiction has already been the subject of a formal review by the court or Statewide Grievance Committee.

COMMENTARY: The amendment to subsection (c) is based on the criteria set forth in ABA Model Rules for Lawyer Disciplinary Enforcement Rule 22. A judicial determination of misconduct or disability by the respondent in another jurisdiction is conclusive, and not subject to relitigation in the forum state. The court should impose commensurate discipline or disability inactive status unless it determines, after review limited to the record of the proceedings in the foreign jurisdiction, that one of the grounds specified in subsection (c) exists. These criteria were first listed as optional factors to be considered in the 2004 commentary to this section and are now codified.

Sec. 2-42. Conduct Constituting Threat of Harm to Clients

(a) **[**If there is a disciplinary proceeding pending against a lawyer, or if there has been a notice of overdraft in accordance with the provisions of Section 2-28 (f) and the grievance panel, the reviewing committee, the Statewide Grievance Committee or the disciplinary counsel believes that the lawyer poses a substantial threat of irreparable harm to his or her clients or to prospective clients, or that there has been an unexplained overdraft in the lawyer's trust funds account,

the panel or committee shall so advise the disciplinary counsel. The disciplinary counsel shall, upon being so advised or upon his or her own belief, apply to the court for an order of interim suspension.**]** If a grievance panel, a reviewing committee, the Statewide Grievance Committee or the disciplinary counsel believes that a lawyer poses a substantial threat of irreparable harm to his or her clients or to prospective clients, the disciplinary counsel shall apply to the court for an order of interim suspension. The disciplinary counsel shall provide the lawyer with notice that an application for interim suspension has been filed and that a hearing will be held on such application.

(b) The court, after hearing, pending final disposition of the disciplinary proceeding, may, if it finds that the lawyer poses a substantial threat of irreparable harm to his or her clients or to prospective clients, enter an order of interim suspension, or may order such other interim action as deemed appropriate. Thereafter, upon good cause shown, the court may, in the interest of justice, set aside or modify the interim suspension or other order entered pursuant hereto. Whenever the court enters an interim suspension order pursuant hereto, the court may appoint a trustee, pursuant to Section 2-64, to protect the clients' and the suspended attorney's interests.

(c) No entry fee shall be required for proceedings hereunder. Any hearings necessitated by the proceedings may, in the discretion of the court, be held in chambers.

COMMENTARY: The amendment allows disciplinary authorities to commence an application for interim suspension in situations where there is no disciplinary proceeding or overdraft investigation pending,

but it is believed that the lawyer poses a substantial threat of irreparable harm to clients. This rule change allows disciplinary authorities to file an interim suspension action if they are aware that a lawyer is missing, has been incarcerated prior to a finding of guilt, or that a credible allegation exists that the lawyer has misappropriated client's funds, or that the lawyer's conduct has been referred to a grievance panel for an investigation. This change allows for expedited review by the court of these serious matters, while the disciplinary investigation is still occurring and protects the public without undue delay. The burden of proof still remains on the disciplinary counsel to prove irreparable harm by clear and convincing evidence before an independent judicial authority and allows for the court to set aside such a suspension if good cause can be shown by the attorney.

Sec. 2-53. Reinstatement after Suspension, Disbarment or Resignation

(a) An attorney who has been suspended from the practice of law in this state for a period of one year or more or has remained under suspension pursuant to an order of interim suspension for a period of one year or more shall be required to apply for reinstatement in accordance with this section, unless the court that imposed the discipline expressly provided in its order that such application is not required. An attorney who has been suspended for less than one year need not file an application for reinstatement pursuant to this section, unless otherwise ordered by the court at the time the discipline was imposed.

(b) An attorney who was disbarred or resigned shall be required to apply for reinstatement pursuant to this section, but shall not be eligible to do so until after five years from the effective date of disbarment or acceptance by the court of the resignation, unless the court that imposed the discipline expressly provided a shorter period of disbarment or resignation in its order. No attorney who has resigned from the bar and waived the privilege of applying for readmission or reinstatement to the bar at any future time shall be eligible to apply for readmission or reinstatement to the bar under this rule.

(c) In no event shall an application for reinstatement by an attorney disbarred pursuant to the provisions of Section 2-47A be considered until after twelve years from the effective date of the disbarment. No such application may be granted unless the attorney provides satisfactory evidence that full restitution has been made of all sums found to be knowingly misappropriated, including, but not limited to, restitution to the client security fund for all claims paid resulting from the attorney's dishonest misconduct.

(d) Unless otherwise ordered by the court, an application for reinstatement shall not be filed until:

(1) The applicant is in compliance with Sections 2-27 (d), 2-70 and 2-80;

(2) The applicant is no longer the subject of any pending disciplinary proceedings or investigations;

(3) The applicant has passed the Multistate Professional Responsibility Examination (MPRE) not more than six months prior to the filing of the application;

(4) The applicant has successfully completed any criminal sentence including, but not limited to, a sentence of incarceration, probation, parole, supervised release, or period of sex offender registration and has fully complied with any orders regarding conditions, restitution, criminal penalties or fines;

(5) The applicant has fully complied with all conditions imposed pursuant to the order of discipline. If an applicant asserts that a certain disciplinary condition is impossible to fulfill, he or she must apply to the court that ordered the condition for relief from that condition prior to filing an application for reinstatement;

(6) The bar examining committee has received an application fee. The fee shall be established by the chief court administrator and shall be expended in the manner provided by Section 2-22 of these rules.

(e) An application for reinstatement shall be filed with the clerk of the Superior Court in the jurisdiction that issued the discipline. The application shall be filed under oath and on a form approved by the Office of the Chief Court Administrator. The application shall be accompanied by proof of payment of the application fee to the bar examining committee.

(f) The application shall be referred by the clerk of the Superior Court where it is filed to the chief justice or designee, who shall refer the matter to a standing committee on recommendations for admission to the bar whose members do not maintain their primary office in the same judicial district as the applicant.

(g) The clerk of the Superior Court shall give notice of the pendency of the application to the state's attorney of that court's judicial district,

the grievance counsel to the grievance panel whose jurisdiction includes that judicial district court location, the Statewide Grievance Committee, the Office of the Chief Disciplinary Counsel, the client security fund committee, the attorney or attorneys appointed by the court pursuant to Section 2-64, and to all complainants whose complaints against the attorney resulted in the discipline for which the attorney was disbarred or suspended or resigned. The clerk shall also promptly publish notice on the Judicial Branch website, in the Connecticut Law Journal, and in a newspaper with substantial distribution in the judicial district where the application was filed.

(h) Within sixty days of the referral from the chief justice to a standing committee, the Statewide Grievance Committee and the Office of the Chief Disciplinary Counsel shall file a report with the standing committee, which report may include additional relevant information, commentary in the information provided in the application and recommendations on whether the applicant should be reinstated. Both the Statewide Grievance Committee and the Office of the Chief Disciplinary Counsel may file an appearance and participate in any investigation into the application and at any hearing before the standing committee, and at any court proceeding thereon. All filings by the Statewide Grievance Committee and the Office of the Chief Disciplinary Counsel and any other party shall be served and certified to all other parties pursuant to Section 10-12.

(i) The standing committee shall investigate the application, hold hearings pertaining thereto and render a report with its recommendations to the court. The standing committee shall give written notice of

all hearings to the applicant, the state's attorney of the court's judicial district, the grievance counsel to the grievance panel whose jurisdiction includes that judicial district location where the application was filed, the Statewide Grievance Committee, the Office of the Chief Disciplinary Counsel, the client security fund committee, the attorney or attorneys appointed by the court pursuant to Section 2-64, and to all complainants whose complaints against the attorney resulted in the discipline for which the attorney was disbarred or suspended or resigned. The standing committee shall also publish all hearing notices on the Judicial Branch website, in the Connecticut Law Journal and in a newspaper with substantial distribution in the county where the application was filed.

(j) The standing committee shall take all testimony at its hearings under oath and shall include in its report subordinate findings of facts and conclusions as well as its recommendation. The standing committee shall have a record made of its proceedings which shall include a copy of the application for reinstatement, any reports filed by the Statewide Grievance Committee and Office of the Chief Disciplinary Counsel, a copy of the record of the applicant's disciplinary history, a transcript of its hearings thereon, any exhibits received by the standing committee, any other documents considered by the standing committee in making its recommendations, and copies of all notices provided by the standing committee in accordance with this section. Record materials containing personal identifying information or medical information may, in the discretion of the standing committee, be redacted, or open for inspection only to the applicant and other persons having

a proper interest therein and upon order of the court. The standing committee shall complete work on the application within 180 days of referral from the chief justice. It is the applicant's burden to demonstrate by clear and convincing evidence that he or she possesses good moral character and fitness to practice law as defined by Section 2-5A.

(k) Upon completion of its investigation, the standing committee shall file its recommendation in writing together with a copy of the record with the clerk of the Superior Court. The report shall recommend that the application be granted, granted with conditions, or denied. The standing committee's report shall be served and certified to all other parties pursuant to Section 10-12.

(*l*) The court shall thereupon inform the chief justice of the pending application and recommendation, and the chief justice shall designate two other judges of the Superior Court to sit with the judge presiding at the session. The applicant, the Statewide Grievance Committee, the Office of the Chief Disciplinary Counsel and the standing committee shall have an opportunity to appear and be heard at any hearing. The three judge panel, or a majority of them, shall determine whether the application should be granted.

(m) If the application for reinstatement is denied, the reasons therefor shall be stated on the record or put in writing. Unless otherwise ordered by the court, the attorney may not reapply for reinstatement for a period of at least one year following the denial.

COMMENTARY: The amendment clarifies that attorneys who have been suspended under an interim order of suspension for a period of

one year or more must comply with the reinstatement requirements under this section.

Sec. 2-65. Good Standing of Attorney

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

COMMENTARY: This revision refers to language in Section 2-27B (a) that an attorney who has been placed on administrative suspension for failure to comply with attorney registration or minimum continuing legal education requirements shall not be considered in good standing.

Sec. 3-1. Appearance for Plaintiff on Writ or Complaint in Civil and Family Cases

When a writ has been signed by an attorney at law admitted to practice in the courts of this state, such writ shall contain the attorney's name, juris number, mailing address, **[**and**]** telephone number, and e-mail address, all of which shall be typed or printed on the writ, and the attorney's appearance shall be entered for the plaintiff, unless such attorney by endorsement on the writ shall otherwise direct, or unless such attorney shall type or print on the writ the name, address, juris number, **[**and**]** telephone number, and e-mail address of the professional corporation or firm, of which such attorney shall be a member, entering its appearance for the plaintiff. The signature on the complaint of any person proceeding without the assistance of

counsel pursuant to Section 8-1 shall be deemed to constitute the self-represented appearance of such party, who shall be required to type or print on the writ the party's name, mailing address, telephone number, and e-mail address.

COMMENTARY: These changes will facilitate the scheduling of remote proceedings, which requires the court to e-mail a *Microsoft Teams* link to the participants.

Sec. 3-3. Form and Signing of Appearance

(a) Except as otherwise provided in subsection (b); each appearance shall: (1) be filed on Judicial Branch form JD-CL-12; (2) include the name and number of the case, the name of the court location to which it is returnable and the date; (3) be legibly signed by the individual preparing the appearance with the individual's own name; and (4) state the party or parties for whom the appearance is being entered and the official (with position or department, if desired), firm, professional corporation or individual whose appearance is being entered, together with the juris number assigned thereto, if any, the mailing address, **[** and the**]** telephone number and e-mail address.

(b) Each limited appearance pursuant to Section 3-8 (b) shall: (1) be filed on Judicial Branch form JD-CL-121; (2) include the name and number of the case, the name of the court location to which it is returnable and the date; (3) be legibly signed by the individual preparing the appearance with the individual's own name; and (4) state the party or parties for whom the appearance is being entered and the official (with position or department, if desired), firm, professional corporation or individual whose appearance is being entered, together with the

juris number assigned thereto if any, the mailing address,[and the] telephone number and e-mail address; (5) define the proceeding or event for which the lawyer is appearing; and (6) state that the attorney named on the limited appearance is available for service of process only for those matters described on the limited appearance. All pleadings, motions, or other documents served on the limited appearance attorney shall also be served in the same manner on the party for whom the limited appearance was filed. For all other matters, service must be made on the party instead of the attorney who filed the limited appearance, unless otherwise ordered by court.

(c) This section does not apply to appearances entered pursuant to Section 3-1.

COMMENTARY: These changes will facilitate the scheduling of remote proceedings, which requires the court to e-mail a *Microsoft Teams* link to the participants.

Sec. 3-6. Appearances for Bail, [or] Detention Hearing, or Alternative Arraignment Proceedings Only

(a) An attorney, prior to the entering of an appearance by any other attorney, may enter an appearance for the defendant in a criminal case for the sole purpose of representing the defendant at a hearing for the fixing of bail. Such appearance shall be in writing and shall be styled, ''for the purpose of the bail hearing only.'' Upon entering such an appearance, that attorney shall be entitled to confer with the prosecuting authority in connection with the bail hearing.

(b) An attorney may enter an appearance in a delinquency proceeding for the sole purpose of representing the respondent at any detention

hearing; such appearance shall be in writing and styled ''for the purpose of detention hearing only.''

(c) An attorney may enter an appearance for the defendant in a criminal case who is subject to a motion to arraign such defendant remotely or without his or her presence pursuant to subsection (c) of Section 37-1 for the limited purpose of representing the defendant at the hearing on such motion, any arraignment conducted pursuant to that subsection, and until the defendant's first appearance in court. Such appearance shall be in writing and shall be styled, ''for the purpose of alternative arraignment proceedings only.'' Upon entering such an appearance, that attorney shall be entitled to confer with the prosecuting authority in connection with the hearing on such motion, the arraignment of the defendant in accordance with subsection (c) of Section 37-1, if any, and until the defendant's first appearance in court.

COMMENTARY: This section has been amended to address the alternative arraignment proceedings established in Section 37-1 and the need for a limited criminal appearance for public defenders designated to represent defendants subject to such alternative arraignment proceedings pursuant to new subsection (c) of Section 37-1 and new subsection (c) of Section 37-6.

Sec. 3-8. Appearance for Represented Party

(a) Whenever an attorney files an appearance for a party, or the party files an appearance for himself or herself, and there is already an appearance of an attorney or party on file for that party, the attorney or party filing the new appearance shall state thereon whether such

appearance is in place of or in addition to the appearance or appearances already on file. Section 25-6A shall apply to any appearance filed in a family case by a self-represented party when filed in addition to an appearance or appearances already on file.

(b) An attorney is permitted to file an appearance limited to a specific event or proceeding in any family or civil case. If an event or proceeding in a matter in which a limited appearance has been filed has been continued to a later date, for any reason, it is not deemed completed unless otherwise ordered by the court. Except with leave of court, a limited appearance may not be filed to address a specific issue or to represent the client at or for a portion of a hearing. A limited appearance may not be limited to a particular length of time or the exhaustion of a fee. Whenever an attorney files a limited appearance for a party, the limited appearance shall be filed in addition to any self-represented appearance that the party may have already filed with the court. Upon the filing of the limited appearance, the client may not file or serve pleadings, discovery requests or otherwise represent himself or herself in connection with the proceeding or event that is the subject of the limited appearance. An attorney shall not file a limited appearance for a party when filing a new action or during the pendency of an action if there is no appearance on file for that party, unless the party for whom the limited appearance is being filed files an appearance in addition to the attorney's limited appearance at the same time. A limited appearance may not be filed on behalf of a firm or corporation. A limited appearance may not be filed in criminal or juvenile cases,

except that a limited appearance may be filed pursuant to Section 79a-3 (c) (1).

(c) The provisions of this section regarding parties filing appearances for themselves do not apply to criminal cases.

COMMENTARY: This revision to subsection (a) refers to new Section 25-6A, which governs parties with dual representation in family cases. The revision to the last sentence of subsection (b) was adopted by the judges of the Superior Court on June 26, 2020, and became effective on July 14, 2020, on an interim basis, pursuant to Section 1-9 of the Practice Book. That change was in response to the Supreme Court opinion in *In re Taijha H.-B.*, 333 Conn. 297, 216 A.3d 601 (2019), and is intended to be consistent with the Rules of Appellate Procedure.

AMENDMENTS TO THE CIVIL RULES

Sec. 10-44. —Substitute Pleading; Judgment

Within fifteen days after the granting of any motion to strike, the party whose pleading has been stricken may file a new pleading; provided that in those instances where an entire complaint, counterclaim or cross complaint, or any count in a complaint, counterclaim or cross complaint has been stricken, and the party whose pleading or a count thereof has been so stricken fails to file a new pleading within that fifteen day period, the judicial authority may, upon motion, enter judgment against said party on said stricken complaint, counterclaim or cross complaint, or count thereof.

Any new pleading filed pursuant to this section shall be accompanied by a separate document which shows the differences between the

previous pleading and the new pleading by using underlining to indicate new language and by using either brackets or strikethrough to indicate deleted language.

Nothing in this section shall dispense with the requirements of Sections 61-3 or 61-4 of the appellate rules.

COMMENTARY: This revision requires that substitute pleadings be accompanied by a document that shows the additions and deletions made to the original filing, mirroring the requirements of Section 10-60 (a) (3).

Sec. 10-59. Amendments; Amendment as of Right by Plaintiff

The plaintiff may amend any defect, mistake or informality in the writ, complaint or petition and insert new counts in the complaint, which might have been originally inserted therein, without costs, during the first thirty days after the return day. (See General Statutes § 52-128 and annotations.)

Any writ, complaint or petition amended pursuant to this section shall be accompanied by a separate document showing the portion or portions of the original writ, complaint or petition so amended by using underlining to indicate new language and by using either brackets or strikethrough to indicate deleted language.

COMMENTARY: This revision requires that writs, complaints or petitions amended pursuant to this section be accompanied by a document that shows the additions and deletions made to the original filing, mirroring the requirements of Section 10-60 (a) (3).

Sec. 10-60. —Amendment by Consent, Order of Judicial Authority, or Failure To Object

(a) Except as provided in Section 10-66, a party may amend his or her pleadings or other parts of the record or proceedings at any time subsequent to that stated in the preceding section in the following manner:

(1) By order of judicial authority; or

(2) By written consent of the adverse party; or

(3) By filing a request for leave to file an amendment together with**[**: (A)**]** the amended pleading or other parts of the record or proceedings**[**, and (B) an additional document showing the portion or portions of the original pleading or other parts of the record or proceedings with the added language underlined and the deleted language stricken through or bracketed**]**. The party shall file the request and accompanying documents after service upon each party as provided by Sections 10-12 through 10-17, and with proof of service endorsed thereon. If no party files an objection to the request within fifteen days from the date it is filed, the amendment shall be deemed to have been filed by consent of the adverse party. If an opposing party shall have objection to any part of such request or the amendment appended thereto, such objection in writing specifying the particular paragraph or paragraphs to which there is objection and the reasons therefor, shall, after service upon each party as provided by Sections 10-12 through 10-17 and with proof of service endorsed thereon, be filed with the clerk within the time specified above and placed upon the next short calendar list.

(b) Any amended pleading or other part of the record or proceedings filed pursuant to this section or accompanying a request for leave to file an amendment pursuant to this section shall be accompanied by a separate document showing the amendments to the original pleading or other parts of the record or proceedings being amended by using underlining to indicate new language and by using either brackets or strikethrough to indicate deleted language.

[(b)**]** (c) The judicial authority may restrain such amendments so far as may be necessary to compel the parties to join issue in a reasonable time for trial. If the amendment occasions delay in the trial or inconvenience to the other party, the judicial authority may award costs in its discretion in favor of the other party. For the purposes of this rule, a substituted pleading shall be considered an amendment. (See General Statutes § 52-130 and annotations.)

COMMENTARY: This revision requires that amended pleadings be accompanied by a document that shows the additions and deletions made to the original filing, expanding the requirements of Section 10-60 (a) (3) to apply to all such amended pleadings.

Sec. 13-6. Interrogatories; In General

(a) In any civil action, in any probate appeal, or in any administrative appeal where the judicial authority finds it reasonably probable that evidence outside the record will be required, any party may serve in accordance with Sections 10-12 through 10-17 written interrogatories, which may be in electronic format, upon any other party to be answered by the party served. Written interrogatories may be served upon any party without leave of the judicial authority at any time after the return

day. Except as provided in subsection (d) or where the interrogatories are served electronically as provided in Section 10-13 and in a format that allows the recipient to electronically insert the answers in the transmitted document, the party serving interrogatories shall leave sufficient space following each interrogatory in which the party to whom the interrogatories are directed can insert the answer. In the event that an answer requires more space than that provided on interrogatories that were not served electronically and in a format that allows the recipient to electronically insert the answers in the transmitted document, the answer shall be continued on a separate sheet of paper which shall be attached to the completed answers.

(b) Interrogatories may relate to any matters which can be inquired into under Sections 13-2 through 13-5, and the answers may be used at trial to the extent permitted by the rules of evidence. In all personal injury actions alleging liability based on the operation or ownership of a motor vehicle or alleging liability based on the ownership, maintenance or control of real property, or in actions claiming a loss of consortium or uninsured/underinsured motorist coverage benefits, the interrogatories shall be limited to those set forth in Forms 201, 202, 203, 208, 210, 212, 213 and/or 214 of the rules of practice, unless upon motion, the judicial authority determines that such interrogatories are inappropriate or inadequate in the particular action. These forms are set forth in the Appendix of Forms in this volume. Unless the judicial authority orders otherwise, the frequency of use of interrogatories in all actions except those for which interrogatories have been set forth

in Forms 201, 202, 203, 208, 210, 212, 213 **[**and/or**]**, 214, 218, 220 and/or 221 of the rules of practice is not limited.

(c) In all actions alleging medical negligence, the interrogatories shall be limited to: (1) those set forth in Forms 218, 220, and 221 of the rules of practice and contained in the Appendix of Forms in this volume to which no objections shall be allowed and (2) twenty additional interrogatories as of right, which may not contain subparts. The party to whom the additional twenty as of right interrogatories are directed may file specific, individual objections to each additional as of right interrogatory.

[(c)**]** (d) The standard interrogatories in civil actions, including standard and as of right additional interrogatories in medical negligence actions, are intended to address discovery needs in most cases in which their use is mandated, but they do not preclude any party from moving for permission to serve such additional discovery as may be necessary in any particular case as contemplated by Section 13-2.

[(d)**]** (e) In lieu of serving the interrogatories set forth in Forms 201, 202, 203, 208, 210, 212, 213 **[**and/or**]**, 214, 218, 220, and/or 221 of the rules of practice on a party who is represented by counsel, the moving party may serve on such party a notice of interrogatories, which shall not include the actual interrogatories to be answered, but shall instead set forth the number of the Practice Book form containing such interrogatories and the name of the party to whom the interrogatories are directed. The party to whom such notice is directed shall in his or her response set forth each interrogatory immediately followed by that party's answer thereto.

[(e)**]** (f) The party serving interrogatories or the notice of interrogatories shall not file them with the court.

[(f)**]** (g) Unless leave of court is granted, the instructions to Forms 201 through 203 are to be used for all nonstandard interrogatories.

COMMENTARY: The changes to this section provide that in all actions alleging medical negligence, the interrogatories are limited to those in new Forms 218, 220, and 221, and twenty additional interrogatories as of right. No objections shall be allowed to the interrogatories set out in the cited forms. The party to whom the additional twenty as of right interrogatories are directed may file specific, individual objections to each such additional interrogatory.

Sec. 13-9. Requests for Production, Inspection and Examination; In General

(a) In any civil action, in any probate appeal, or in any administrative appeal where the judicial authority finds it reasonably probable that evidence outside the record will be required, any party may serve in accordance with Sections 10-12 through 10-17 upon any other party a request to afford the party submitting the request the opportunity to inspect, copy, photograph or otherwise reproduce designated documents or to inspect and copy, test or sample any tangible things in the possession, custody or control of the party upon whom the request is served or to permit entry upon designated land or other property for the purpose of inspection, measuring, surveying, photographing, testing or sampling the property or any designated object or operation thereon. Such requests will be governed by the provisions of Sections 13-2 through 13-5. In all personal injury actions alleging liability based

on the operation or ownership of a motor vehicle or alleging liability based on the ownership, maintenance or control of real property, or in actions claiming a loss of consortium or uninsured/underinsured motorist coverage benefits, the requests for production shall be limited to those set forth in Forms 204, 205, 206, 209, 211, 215 and/or 216 of the rules of practice, unless, upon motion, the judicial authority determines that such requests for production are inappropriate or inadequate in the particular action. These forms are set forth in the Appendix of Forms in this volume.

(b) In all actions alleging medical negligence, production requests shall be limited to: (1) those set forth in Forms 219, 222, and 223 of the rules of practice and contained in the Appendix of Forms in this volume and (2) twenty additional production requests as of right, which may not contain subparts. The party to whom the additional twenty as of right requests are directed may file specific, individual objections to each additional as of right production request. A party may move for permission to file additional discovery, which the judicial authority shall permit if it determines that such requests for production filed to date are inappropriate or inadequate in the particular action.

[(b)**]** (c) The standard requests for production are intended to address discovery needs in most cases in which their use is mandated, but they do not preclude any party from moving for permission to serve such additional discovery as may be necessary in any particular case.

[(c)**]** (d) Requests for production may be served upon any party without leave of court at any time after the return day. In lieu of serving the requests for production set forth in Forms 204, 205, 206, 209,

211, 215 **[**and/or**]**, 216, 219, 222 and/or 223 of the rules of practice on a party who is represented by counsel, the moving party may serve on such party a notice of requests for production, which shall not include the actual requests, but shall instead set forth the number of the Practice Book form containing such requests and the name of the party to whom the requests are directed.

[(d)**]** (e) The request shall clearly designate the items to be inspected either individually or by category. The request or, if applicable, the notice of requests for production shall specify a reasonable time, place and manner of making the inspection. Unless the judicial authority orders otherwise, the frequency of use of requests for production in all actions except those for which requests for production have been set forth in Forms 204, 205, 206, 209, 211, 215 **[**and/or**]**, 216, 219, 222, and/or 223 of the rules of practice is not limited.

[(e)**]** (f) If information has been electronically stored, and if a request for production does not specify a form for producing a type of electronically stored information, the responding party shall produce the information in a form in which it is ordinarily maintained or in a form that is reasonably usable. A party need not produce the same electronically stored information in more than one form.

[(f)**]** (g) The party serving such request or notice of requests for production shall not file it with the court.

[(g)**]** (h) Unless leave of court is granted, the instructions to Forms 204 through 206 of the rules of practice are to be used for all nonstandard requests for production.

[(h)**]** (i) A party seeking the production of a written authorization in compliance with the Health Insurance Portability and Accountability Act to inspect and make copies of protected health information, or a written authorization in compliance with the Public Health Service Act to inspect and make copies of alcohol and drug records that are protected by that act, shall file a motion pursuant to Section 13-11A. A motion need not be filed to obtain such authorization in actions to which Forms 204, 205 **[**and**]**, 216, 219, 222, and 223 of the rules of practice apply.

COMMENTARY: The changes to this section provide that in all actions alleging medical negligence, production requests shall be limited to those in new Forms 219, 222, and 223, and twenty additional requests for production as of right. The party to whom the additional twenty as of right requests are directed may file specific, individual objections to each such additional request. Upon motion of any party, the judicial authority shall permit additional discovery if it is determined that such requests for production filed to date are inappropriate or inadequate in a particular action.

Sec. 13-14. Order for Compliance; Failure To Answer or Comply with Order

(a) If any party has failed to answer interrogatories or to answer them fairly, or has intentionally answered them falsely or in a manner calculated to mislead, or has failed to respond to requests for production or for disclosure of the existence and contents of an insurance policy or the limits thereof, or has failed to submit to a physical or mental examination, or has failed to comply with a discovery order

made pursuant to Section 13-13, or has failed to comply with the provisions of Section 13-15, or has failed to appear and testify at a deposition duly noticed pursuant to this chapter, or has failed otherwise substantially to comply with any other discovery order made pursuant to Sections 13-6 through 13-11, the judicial authority may, on motion, make such order proportional to the noncompliance as the ends of justice require.

(b) Such orders may include the following:

(1) **[**The entry of a nonsuit or default against the party failing to comply**]** An order of compliance;

(2) The award to the discovering party of the costs of the motion, including a reasonable attorney's fee;

(3) The entry of an order that the matters regarding which the discovery was sought or other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(4) The entry of an order prohibiting the party who has failed to comply from introducing designated matters in evidence;

(5) **[**If the party failing to comply is the plaintiff, the entry of a judgment of dismissal**]** An order of dismissal, nonsuit or default.

(c) The failure to comply as described in this section may not be excused on the ground that the discovery is objectionable unless written objection as authorized by Sections 13-6 through 13-11 has been filed.

(d) The failure to comply as described in this section shall be excused and the judicial authority may not impose sanctions on a party for failure

to provide information, including electronically stored information, lost as the result of the routine, good-faith operation of a system or process in the absence of a showing of intentional actions designed to avoid known preservation obligations.

COMMENTARY: The changes to this section are intended to conform to appellate precedent. An order of compliance or other order under this section must be proportional to the noncompliance.

Sec. 17-45. —Proceedings upon Motion for Summary Judgment[; Request for Extension of Time To Respond]

(a) A motion for summary judgment shall be supported by appropriate documents, including but not limited to affidavits, certified transcripts of testimony under oath, disclosures, written admissions and other supporting documents.

(b) Unless otherwise ordered by the judicial authority, any adverse party shall file and serve a response to the motion for summary judgment within forty-five days of the filing of the motion, including opposing affidavits and other available documentary evidence.

(c) Unless otherwise ordered by the judicial authority, the moving party shall not claim the motion for summary judgment to the short calendar less than forty-five days after the filing of the motion for summary judgment.

COMMENTARY: The change to the title of this section is to make it consistent with the amendments of January 1, 2017, which, among other things, eliminated the provision for filing a request for extension of time to respond to a motion for summary judgment.

AMENDMENTS TO THE FAMILY RULES

(NEW) Sec. 25-6A. Appearance by Self-Represented Party in Addition to Appearance of Attorney

(a) A party may file an appearance as a self-represented party without prior approval of the court even though there is an existing appearance of one or more attorneys on file for that party. For purposes of this section, a ''party with dual representation'' is a party for whom one or more attorneys have current appearances on file and who also has a current appearance on file as a self-represented party.

(b) Pursuant to Section 4-2, any pleading or other paper filed by or on behalf of a party with dual representation must be signed by an attorney of record for the party.

(c) If a party with dual representation files a motion that is not signed by an attorney of record, the court may, upon its own motion or upon the motion of any party, order that proceedings on the motion be stayed until an attorney of record adopts said motion as if it were signed by that attorney. The attorney may adopt the motion either by filing a notice of such adoption with the court or by making an oral statement to that effect in court on the record. Alternatively, if the party with dual representation affirms to the court that no attorney is actively representing the party with respect to any matters in the case in which the motion was filed, the court may in its discretion order that proceedings on the motion be stayed until the party with dual representation files a new appearance as a self-represented party in lieu of the appearances of any and all attorneys of record for the party.

(d) Unless and until a motion filed by a party with dual representation without the signature of the party's attorney is adopted by the attorney, disposed of, or withdrawn:

(1) The party with dual representation shall be solely responsible for the prosecution or litigation of the motion; and

(2) An attorney of record for any other party in the case may communicate directly with the party with dual representation, but only with respect to the subject matter of the motion.

(e) If two motions of a party with dual representation are scheduled for hearing at the same time, with one or more having been signed or adopted by the party's attorney and one or more not having been so signed or adopted, the court in its discretion may determine the most appropriate method of proceeding with the hearing of the multiple motions.

(f) If a party with dual representation files a pleading or paper, other than a motion, which is not signed by the party's attorney, the court may treat such filing in the same manner as it may treat a motion under this section or in such other manner as in its discretion it deems appropriate under the circumstances.

COMMENTARY: The above rule is intended to clarify the procedures to be followed when parties in family matters file appearances on their own behalf even though they may also have, or intend to have, an attorney who has filed an appearance. The rule recognizes that filing a self-representation appearance may be desirable in order to receive notices from the court. However, the rule is not intended to supersede the requirement of Section 4-2 that a pleading or other paper filed on

behalf of a party who is represented by an attorney be signed by the attorney. The rule also acknowledges the possibility that a party will nevertheless file a motion without the attorney's signature. In that event, it is intended to provide guidance to the parties, attorneys, and the court about how to proceed. In exercising its discretion to stay proceedings on a motion filed by a party without the attorney's signature, the court may consider any relevant circumstances, including, but not limited to, the emergency nature, if any, of the motion; any time limits imposed by statute or rule on the court's hearing on the motion; the pendency of another motion filed on behalf of the party which has been signed or adopted by the party's attorney, or by another party, which concerns the same facts or legal issues; and the likelihood that action by the court on the motion that has not been signed or adopted by the attorney will substantially impact the adjudication of other issues in the case.

Sec. 25-60A. Court-Ordered Private Evaluations

(a) If the court orders a private evaluation of any party or any child in a family proceeding where custody, visitation or parental access is at issue, a qualified, licensed health care provider **[**state licensed mental health professional**]** shall conduct such evaluation.

(b) If the court has determined that an evaluation can be undertaken and a qualified, licensed health care provider has been selected to perform the evaluation, the court's order for an evaluation shall contain the name of the provider who is to undertake the evaluation, the estimated cost of the evaluation, each party's responsibility for the cost of the evaluation, the professional credentials of the provider, the

estimated deadline by which the evaluation shall be completed and submitted to the court, and the estimated fee of the provider for testifying in court. The estimated cost of the evaluation shall include, separately stated, the estimated fee of the provider for testifying in court.

(c) Not later than thirty days after the date of the completion of the evaluation, the provider shall file a report containing the results of the evaluation with the clerk of the court, who shall seal such report.

[(b)**]**(d) Notice of any orders relating to the evaluation ordered shall be communicated to the evaluator by the guardian ad litem or, where there is no guardian ad litem, by court personnel.

[(c)**]**(e) Until a court-ordered evaluation is filed with the clerk pursuant to Section 25-60 (b), counsel for the parties shall not initiate contact with the evaluator, unless otherwise ordered by the judicial authority.

[(d)**]**(f) The provisions of subsections (a) and (b) of Section 25-60 shall apply to completed private court-ordered evaluations.

COMMENTARY: The amendment to subsection (a) substitutes the language used in General Statutes § 46b-6a, ''qualified, licensed health care provider,'' for the existing language, ''state licensed mental health professional.'' The new subsections (b) and (c) include the specific requirements in § 46b-6a, as well as an additional provision that the estimated fee of the provider for testifying in court be separately stated. Although § 46b-6a does not require that the estimated fee for testifying in court be included in the court's order, that information is essential. The evaluation report is not admissible in evidence under Practice Book Section 25-60 (c) unless the provider is available for

cross-examination. The parties should know in advance what they will be expected to pay for the provider's testimony in court.

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,'' ''abused,'' ''delinquent,'' ''delinquent act,'' ''neglected,'' ''uncared for,'' ''alcohol-dependent,'' **[**''family with service needs,''**]** ''drug-dependent,'' ''serious juvenile offense,'' ''serious juvenile offender,'' ''serious juvenile repeat offender,'' ''predispositional 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 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 conduct as a delinquent **[**or situation as a child from a family with service needs**]** brings the child 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)**]** (e) ''Guardian'' means a person who has a judicially created relationship with a child, 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: protection, education, care and control of the person, custody of the person and decision making.

[(g)**]** (f) ''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, orders

whatever action is in the best interests of the child 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 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 (A) 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 (B) a child 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 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)**]** (g) ''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)**]** (h) ''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 born out of wedlock, provided at the time of the filing of the petition (1) he has been adjudicated the father of such child 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 (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 by the mother.

[(j)**]** (i) ''Parties'' includes: (1) The child 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)**]** (j) ''Permanency plan'' means a plan developed by the Commissioner of the Department of Children and Families for the permanent placement of a child 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), and 46b-149 (h).

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

[(n)**]** (m) ''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)**]** (n) ''Probation supervision with residential placement'' means a legal status where by 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.

[(p)**]** (o) ''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 who is the subject of a petition alleging that

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

[(q)**]** (p) ''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.

[(r)**]** (q) ''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.

[(s)**]** (r) ''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)**]** (s) ''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.

[(u)**]** (t) ''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 when the child'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.

[(v)**]** (u) ''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: Number 19-187 of the 2019 Public Acts eliminated family with service needs filings as of July 1, 2020. This section has been revised accordingly.

CHAPTER 27
Reception and Processing of Delinquency [and Family with Service Needs] Complaints or Petitions

Sec. 27-9. Family with Service Needs Referrals [Repealed]

[(a) Any complaint alleging that a child is from a family with service needs shall be referred to a probation officer, who shall determine its

sufficiency as a family with service needs complaint. If the probation officer determines the complaint is sufficient, the probation officer shall, after initial assessment promptly refer the child and the child's family to a suitable community-based program or other service provider or to a family support center for voluntary services.

(b) If the child and the child's family are referred to a community-based program or other service provider and the person in charge of such program or provider determines that the child and the child's family can no longer benefit from its services, such person shall inform the probation officer, who shall, after an appropriate assessment, either refer the child and the child's family to a family support center for additional services or determine whether or not to file a petition with the court. If the child and the child's family are referred to a family support center and the person in charge of the family support center determines that the child and the child's family can no longer benefit from its services, such person shall inform the probation officer, who may file a petition with the court.

(c) When a judicial authority, after a petition has been filed, refers a child alleged to be from a family with service needs to community-based services or other services or a family support center pursuant to General Statutes § 46b-149 (e), the referral order should provide that upon successful resolution, the matter will be dismissed and erased without the filing of a request, application, or petition for erasure for all purposes except subsequent consideration for nonjudicial handling of a delinquency complaint under Section 27-4A.**]**

COMMENTARY: Number 19-187 of the 2019 Public Acts eliminated family with service needs filings as of July 1, 2020; therefore, this section is obsolete.

CHAPTER 29
RECEPTION AND PROCESSING OF DELINQUENCY [AND CHILD FROM FAMILY WITH SERVICE NEEDS] PETITIONS AND DELINQUENCY INFORMATIONS

Sec. 29-1. Contents of Delinquency [and Family with Service Needs] Petitions or [Delinquency] Informations

[(a)**]** A delinquency petition or information shall set forth in plain, concise and definite language the offense which the petitioner contends the child has committed. The petition or information shall further state the citation of any provision of law which is the basis of the petition or information, together with a statement that the offense occurred on or about a particular date or period of time at a particular location.

[(b) A family with service needs petition shall set forth in plain, concise and definite language the specific misconduct which the petitioner contends the child or youth has committed. The petition shall further state the citation of any provision of law which is the basis of the petition, together with a statement that the misconduct occurred on or about a particular date or period of time at a particular location.**]**

COMMENTARY: Number 19-187 of the 2019 Public Acts eliminated family with service needs filings as of July 1, 2020. This section has been revised accordingly.

Sec. 29-1B. Processing of Family with Service Needs Petitions [Repealed]

[The procedures promulgated in General Statutes § 46b-149 shall apply. Court process shall be initiated by a petition filed by a probation officer and signed and verified by the juvenile prosecutor.**]**

COMMENTARY: Number 19-187 of the 2019 Public Acts eliminated family with service needs filings as of July 1, 2020; therefore, this section is obsolete.

Sec. 29-2. Service of Petitions

(a) Notice of summons, together with a copy of the verified delinquency **[**or family with service needs**]** petition, may be made to the child or youth and parent, guardian or other person having control of the child or youth by service in accordance with any one of the methods set out in General Statutes § 46b-128. Any notice sent by first class mail shall include a provision informing the party that appearance in court as a result of the notice may subject the appearing party to the jurisdiction of the court. If the child or youth does not appear on the plea date, service shall be made in accordance with General Statutes § 46b-128 **[**or § 46b-149 (d), as appropriate**]**.

(b) Petitions alleging delinquency **[**or family with service needs misconduct**]** shall be served or delivered not less than seven days before the date of the hearing which shall be held not more than thirty days from the date of filing of the petition.

COMMENTARY: Number 19-187 of the 2019 Public Acts eliminated family with service needs filings as of July 1, 2020. This section has been revised accordingly.

Sec. 30-2A. [Family with Service Needs] Nondelinquent Juvenile Runaway from Another State and Detention

[(a) No child who has been adjudicated as a child from a family with service needs in accordance with General Statutes § 46b-149 may be processed or held in a juvenile detention center as a delinquent child, or be convicted as a delinquent, solely for the violation of a valid order which regulates future conduct of the child that was issued by the court following such an adjudication, and no such child who is charged or found to be in violation of any such order may be ordered detained in any juvenile detention center.

(b)**]** No nondelinquent juvenile runaway from another state may be held in a juvenile detention center in accordance with the provisions of General Statutes § 46b-151h.

COMMENTARY: Number 19-187 of the 2019 Public Acts eliminated family with service needs filings as of July 1, 2020. This section has been revised accordingly.

CHAPTER 30a
DELINQUENCY [AND FAMILY WITH SERVICE NEEDS] HEARINGS

Sec. 30a-1. Initial Plea Hearing

(a) The judicial authority shall begin the hearing by determining whether all necessary parties are present and that the rules governing service or notice for nonappearing parties have been complied with, and shall note these facts for the record. The judicial authority shall then inform the parties of the substance of the petition or information.

(b) In age appropriate language, the judicial authority prior to any plea shall advise the child or youth and parent or guardian of the following rights:

(1) That the child or youth is not obligated to say anything and that anything that is said may be used against the child or youth.

(2) That the child or youth is entitled to the services of an attorney and that if the child or youth and the parent or parents, or guardian are unable to afford an attorney for the child or youth, an application for a public defender or an attorney appointed by the chief public defender should be completed and filed with the Office of the Public Defender or the clerk of the court to request an attorney without cost.

(3) That the child or youth will not be questioned unless he or she consents, that the child or youth can consult with an attorney before being questioned and may have an attorney present during questioning, and that the child or youth can stop answering questions at any time.

(4) That the child or youth has the right to a trial and the rights of confrontation and cross examination of witnesses.

(c) Notwithstanding any prior statement acknowledging responsibility for the acts alleged, the judicial authority shall inquire of the child or youth whether the child or youth presently admits or denies the allegations of the petition or information.

(d) If the judicial authority determines that a child or youth, or the parent, parents or guardian of a child or youth are unable to afford counsel for the child or youth, the judicial authority shall, in a delinquency proceeding, appoint the Office of the Public Defender to repre-

sent the child or youth**[**, or in a family with service needs proceeding, notify the chief public defender, who shall assign an attorney to represent the child or youth**]**.

(e) If the judicial authority, even in the absence of a request for appointment of counsel, determines that the interests of justice require the provision of an attorney to represent the child, youth or the child's or youth's parent or parents, guardian or other person having control of the child or youth, in any delinquency **[**or family with service needs**]** proceeding, the judicial authority may appoint an attorney to represent any such party and shall notify the chief public defender who shall assign an attorney to represent any such party. Where, under the provisions of this section, the court so appoints counsel for any such party who is found able to pay, in whole or in part, the cost thereof, the judicial authority shall assess as costs on the appropriate form against such parent or parents, guardian or other person having control of the child or youth, including any agency vested with the legal custody of the child or youth, the expense so incurred and paid by the Public Defender Services Commission in providing such counsel, to the extent of their financial ability to do so in accordance with the rates established by the Public Defender Services Commission for compensation of counsel.

COMMENTARY: Number 19-187 of the 2019 Public Acts eliminated family with service needs filings as of July 1, 2020. This section has been revised accordingly.

Sec. 30a-1A. Family with Service Needs Preadjudication Continuance [Repealed]

[If a family with service needs petition is filed and it appears that the interest of the child or the family may be best served, prior to adjudication, by referral to community-based or other services, the judicial authority may permit the matter to be continued for a reasonable period of time not to exceed six months, which time period may be extended by an additional three months for cause. If it appears at the conclusion of the continuance that the matter has been satisfactorily resolved, the judicial authority may dismiss the petition.**]**

COMMENTARY: Number 19-187 of the 2019 Public Acts eliminated family with service needs filings as of July 1, 2020; therefore, this section is obsolete.

Sec. 30a-2. Pretrial Conference

(a) When counsel is requested, or responsibility is denied, the case may be continued for a pretrial conference. At the pretrial, the parties may agree that a substitute information will be filed, or that certain charges will be nolled or dismissed. If the child or youth and parent or guardian subsequently execute a written statement of responsibility at the pretrial conference, or the attorney for the child or youth conveys to the prosecutor an agreement on the adjudicatory grounds, a predispositional study shall be compiled by the probation department and the case shall be assigned for a plea and dispositional hearing.

(b) If a plea agreement has been reached by the parties which contemplates the entry of **[**an admission in a family with service needs case, or**]** a plea of guilty or nolo contendere in a delinquency case,

and the recommendation of a particular disposition, the agreement shall be disclosed in open court at the time the plea is offered. Thereupon the judicial authority may accept or reject any agreement, or may defer the decision on acceptance or rejection of the agreement until it has had an opportunity to review the predispositional study.

COMMENTARY: Number 19-187 of the 2019 Public Acts eliminated family with service needs filings as of July 1, 2020. This section has been revised accordingly.

Sec. 30a-3. —Standard[s] of Proof; Burden of Going Forward

(a) The standard of proof for a delinquency 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: Number 19-187 of the 2019 Public Acts eliminated family with service needs filings as of July 1, 2020. This section has been revised accordingly.

Sec. 30a-5. Dispositional Hearing

(a) The dispositional hearing may follow immediately upon 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 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 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 adjudication of a child as delinquent in accordance with General Statutes § 46b-140.

[(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 (f).

(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: Number 19-187 of the 2019 Public Acts eliminated family with service needs filings as of July 1, 2020. This section has been revised accordingly.

Sec. 30a-9. Appeals in Delinquency [and Family with Service Needs] Proceedings

The rules governing other appeals shall, so far as applicable, be the rules for all proceedings in delinquency **[**and family with service needs**]** appeals.

COMMENTARY: Number 19-187 of the 2019 Public Acts eliminated family with service needs filings as of July 1, 2020. This section has been revised accordingly.

CHAPTER 31a
DELINQUENCY [AND FAMILY WITH SERVICE NEEDS] MOTIONS AND APPLICATIONS

Sec. 31a-13A. Temporary Custody Order—Family with Service Needs Petition [Repealed]

[If it appears from the allegations of a petition or other sworn affirmation that there is: (1) A strong probability that the child may do something that is injurious to himself or herself prior to court disposition; (2) a strong probability that the child will run away prior to the hearing; or (3) a need to hold the child for another jurisdiction, a judicial authority may vest temporary custody of such child in some suitable person or agency. A hearing on temporary custody shall be held not later than ten days after the date on which a judicial authority signs an order of temporary custody. Following such hearing, the judicial authority may order that the child's temporary custody continue to be vested in some suitable person or agency.**]**

COMMENTARY: Number 19-187 of the 2019 Public Acts eliminated family with service needs filings as of July 1, 2020; therefore, this section is obsolete.

Sec. 31a-14. Physical and Mental Examinations

(a) No physical and/or mental examination or examinations by any physician, psychologist, psychiatrist or social worker shall be ordered by the judicial authority of any child denying delinquent behavior **[**or status as a child or youth from a family with service needs**]** prior to the adjudication, except (1) with the agreement of the child's or youth's parent or guardian and attorney, (2) when the child or youth has executed a written statement of responsibility, (3) when the judicial authority finds that there is a question of the child's or youth's competence to understand the nature of the proceedings or to participate in the defense, or a question of the child or youth having been mentally capable of unlawful intent at the time of the commission of the alleged act, or (4) where the child or youth has been detained and as an incident of detention is administered a physical examination to establish the existence of any contagious or infectious condition.

(b) Any information concerning a child or youth that is obtained during any mental health screening or assessment of such child or youth shall be used solely for planning and treatment purposes and shall otherwise be confidential and retained in the files of the entity performing such screening or assessment. Such information may be further disclosed only for the purposes of any court-ordered evaluation or treatment of the child or youth, or provision of services to the child or youth, or pursuant to General Statutes §§ 17a-101 to 17a-101e, inclusive, 17b-450, 17b-451 or 51-36a. Such information shall not be subject to subpoena or other court process for use in any other proceeding or for any other purpose.

(c) Upon a showing that the mental health of a child or youth is at issue, either prior to adjudication for the reasons set forth in subsection (a) herein or subsequent thereto as a determinate of disposition, the judicial authority may order a child's or youth's placement for a period not to exceed thirty days in a hospital or other institution empowered by law to treat mentally ill children for study and a report on the child's or youth's mental condition.

COMMENTARY: Number 19-187 of the 2019 Public Acts eliminated family with service needs filings as of July 1, 2020. This section has been revised accordingly.

Sec. 31a-16. Discovery

(a) The child or youth or the juvenile prosecutor shall be permitted pretrial discovery in accordance with subsections (b), (c) and (d) of this section by interrogatory, production, inspection or deposition of a person in delinquency **[**or family with service needs**]** matters if the information or material sought is not otherwise obtainable and upon a finding that proceedings will not be unduly delayed.

(b) Motions or requests for discovery shall be filed with the court in accordance with Section 31a-1. The clerk shall calendar any such motion or request for a hearing. Objections to such motions or requests may be filed with the court and served in accordance with Sections 10-12 through 10-17 not later than ten days of the filing of the motion or request unless the judicial authority, for good cause shown, allows a later filing. Upon its own motion or upon the request or motion of a party, the judicial authority may, after a hearing, order discovery. The judicial authority shall fix the times for filing and for responding to

discovery motions and requests and, when appropriate, shall fix the hour, place, manner, terms and conditions of responses to the motions and requests, provided that the party seeking discovery shall be allowed a reasonable opportunity to obtain information needed for the preparation of the case.

(c) Motions or requests for discovery should not be filed unless the moving party has attempted unsuccessfully to obtain an agreement to disclose from the party or person from whom information is being sought.

(d) The provisions of Sections 40-2 through 40-6, inclusive, 40-7 (b), 40-8 through 40-16, inclusive, and 40-26 through 40-58, inclusive, of the rules of procedure in criminal matters shall be applied by the judicial authority in determining whether to grant, limit or set conditions on the requested discovery, issue any protective orders, or order appropriate sanctions for any clear misuse of discovery or arbitrary delay or refusal to comply with a discovery request.

COMMENTARY: Number 19-187 of the 2019 Public Acts eliminated family with service needs filings as of July 1, 2020. This section has been revised accordingly.

Sec. 31a-19A. Motion for Extension or Revocation of Family with Service Needs Commitment; Motion for Review of Permanency Plan [Repealed]

[(a) The Commissioner of the Department of Children and Families may file a motion for an extension of a commitment of a child who has been adjudicated as a child from a family with service needs on the grounds that an extension would be in the best interests of the

child. The clerk shall give notice to the child, the child's parent or guardian, all counsel of record 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 that such extension is in the best interests of the child and that there is no suitable less restrictive alternative, continue the commitment for an additional indefinite period of not more than eighteen months.

(b) The Commissioner of the Department of Children and Families may at any time file a motion to revoke a commitment of a child who has been adjudicated as a child from a family with service needs, or the parent or guardian of such child may at any time but not more often than once every six months file a motion with the judicial authority which committed the child to revoke such commitment. The clerk shall notify the child, the child's parent or guardian, all counsel of record at the time of disposition, if applicable, the guardian ad litem, and the Commissioner of the Department of Children and Families of any motion filed to revoke a commitment under this subsection, and of the time when a hearing on such motion will be held.

(c) Not later than twelve months after the commitment of a child who has been adjudicated as a child from a family with service needs 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 a hearing also may include the submission of a motion to the judicial authority by the Commissioner of the Department of Children and Families, the child's parent or guardian to either extend or revoke the commitment.

(d) At least sixty days prior to each permanency hearing required under subsection (c) 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. That 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: Number 19-187 of the 2019 Public Acts eliminated family with service needs filings as of July 1, 2020; therefore, this section is obsolete.

Sec. 31a-20. Petition for Violation of Family with Service Needs Post-Adjudicatory Orders [Repealed]

[(a) When a child who has been adjudicated as a child from a family with service needs violates any valid order which regulates future conduct of the child made by the judicial authority following such an adjudication, a probation officer, on receipt of a complaint setting forth the facts alleged to be a violation, or on the probation officer's own motion on the basis of his or her knowledge of such a violation, may file a petition with the court alleging that the child has violated a valid court order and setting forth the facts claimed to constitute such a violation.

(b) The judicial authority will ensure that the child is provided an evidentiary hearing on the allegations contained in the petition and that counsel is assigned for the child or youth pursuant to Section

30a-1 of these rules or that counsel of record is notified of the evidentiary hearing.

(c) Upon a finding by the judicial authority by clear and convincing evidence that the child has violated a valid court order, the judicial authority may (1) order the child to remain in such child's home or in the custody of a relative or any other suitable person, subject to the supervision of a probation officer, (2) upon a finding that there is no less restrictive alternative appropriate to the needs of the child and the community, enter an order that directs or authorizes a peace officer or other appropriate person to place the child in a staff-secure facility under the auspices of the court support services division of the Judicial Branch for a period not to exceed forty-five days, with review by the judicial authority every fifteen days to consider whether continued placement is appropriate, at the end of which period the child shall be returned to the community and may be subject to the supervision of a probation officer, or (3) order that the child be committed to the care and custody of the Commissioner of the Department of Children and Families for a period not to exceed eighteen months and that the child cooperate in such care and custody.**]**

COMMENTARY: Number 19-187 of the 2019 Public Acts eliminated family with service needs filings as of July 1, 2020; therefore, this section is obsolete.

Sec. 31a-21. Petition for Child from a Family with Service Needs at Imminent Risk [Repealed]

[(a) When a child who has been adjudicated as a child from a family with service needs is under an order of supervision or an order of

commitment to the Commissioner of the Department of Children and Families and is believed to be in imminent risk of physical harm from the child's surroundings or other circumstances, a probation officer, on receipt of a complaint setting forth facts alleging such risk, or on the probation officer's own motion on the basis of his or her knowledge of such risk, may file a petition alleging that the child is in imminent risk of physical harm and setting forth facts claimed to constitute such risk. Service shall be made in accordance with subsection (d) of General Statutes § 46b-149.

(b) If it appears from the specific allegations of the petition and other verified affirmations of fact accompanying the petition, or made subsequent thereto, that there is probable cause to believe that (1) the child is in imminent risk of physical harm from the child's surroundings, (2) as a result of such condition, the child's safety is endangered and immediate removal from such surroundings is necessary to ensure the child's safety, and (3) there is no less restrictive alternative available, the judicial authority shall enter an order that directs or authorizes a peace officer or other appropriate person to place the child in a staff-secure facility under the auspices of the court support services division of the Judicial Branch for a period not to exceed forty-five days, subject to subsection (e) of this section, with review by the judicial authority every fifteen days to consider whether continued placement is appropriate.

(c) The judicial authority will ensure that the child is provided an evidentiary hearing on the allegations contained in the petition and that counsel is assigned for the child pursuant to Section 30a-1 of

these rules or that counsel of record is notified of the filing of the imminent risk petition.

(d) Not later than the end of such forty-five day period, the child shall either be (1) returned to the community for appropriate services subject to the supervision of a probation officer or an existing commitment to the Commissioner of the Department of Children and Families; or (2) committed to the Commissioner of the Department of Children and Families for a period not to exceed eighteen months if a hearing has been held and the judicial authority has found, based on clear and convincing evidence, that (i) the child is in imminent risk of physical harm from the child's surroundings, (ii) as a result of such condition, the child's safety is endangered and removal from such surroundings is necessary to ensure the child's safety, and (iii) there is no less restrictive alternative available. Any such child shall be entitled to the same procedural protections as are afforded to a delinquent child.

(e) No child shall be held prior to a hearing on a petition under this section for more than twenty-four hours, excluding Saturdays, Sundays and holidays.**]**

COMMENTARY: Number 19-187 of the 2019 Public Acts eliminated family with service needs filings as of July 1, 2020; therefore, this section is obsolete.

Sec. 35a-20. Motions for Reinstatement of Parent [or Former Legal Guardian] as Guardian [or Modification of Guardianship Post-Disposition]

(a) Whenever a parent **[**or former legal guardian**]** whose guardianship rights to a child or youth were removed and transferred to another

person or an agency other than the Department of Children and Families by the Superior Court for juvenile matters seeks reinstatement as that child's or youth's guardian, the parent **[**or former legal guardian**]** may file a motion for reinstatement of guardianship with the court that ordered the transfer of guardianship. **[**In other post-dispositional cases concerning a child or youth whose legal guardianship was transferred to a person other than a parent or former legal guardian, or to an agency other than the Department of Children and Families, any person permitted to intervene may move the court to modify the award of guardianship.**]**

(b) The clerk shall assign such motion a hearing date and issue a summons to the current guardian and the nonmoving parent or parents. The moving party shall cause a copy of such motion and summons to be served on the child's or youth's current legal guardian(s) and the nonmoving parent or parents.

(c) Before acting on such motion, the judicial authority shall determine if the court still has custody jurisdiction and shall request, if necessary, that the Commissioner of the Department of Children and Families conduct an investigation and submit a home study that sets forth written findings and recommendations before rendering a decision.

(d) The hearing on a motion for reinstatement of guardianship is dispositional in nature. **[**The party**]** If the parent seeking reinstatement of guardianship demonstrates that the factors that resulted in the parent's removal as guardian are resolved satisfactorily, the parent is entitled to a presumption that reinstatement is in the best interest of

the child or youth. The party opposing reinstatement of guardianship has the burden of proof to rebut this presumption by clear and convincing evidence. **[**establish that cause for transfer of guardianship to another person or agency no longer exists. The judicial authority shall then determine if reinstatement of guardianship is in the child's or youth's best interest.

(e) The hearing on a motion for post-dispositional modification of a guardianship order is dispositional in nature. The party seeking to modify the existing guardianship order has the burden of proof to establish that the movant's proposed guardian is suitable and worthy. The judicial authority shall then determine if transfer of guardianship to that proposed guardian is in the child's or youth's best interest.**]**

COMMENTARY: Consistent with the decision in *In re Zakai F.*, 336 Conn. 272, ___A.3d ___(2020), this amendment to Section 35a-20 specifies the presumptions and burdens when a parent whose guardianship rights were removed seeks reinstatement, and transfers the provisions related to reinstatement by former legal guardians to new Section 35a-20A.

(NEW) Sec. 35a-20A. Motions for Reinstatement of Former Legal Guardian as Guardian or Modification of Guardianship Post-Disposition

(a) Whenever a former legal guardian whose guardianship rights to a child or youth were removed and transferred to another person or an agency other than the Department of Children and Families by the Superior Court for juvenile matters seeks reinstatement as that child's or youth's guardian, the former legal guardian may file a motion for

reinstatement of guardianship with the court that ordered the transfer of guardianship. In other post-dispositional cases concerning a child or youth whose legal guardianship was transferred to a person other than a parent or former legal guardian, or to an agency other than the Department of Children and Families, any person permitted to intervene may move the court to modify the award of guardianship.

(b) The clerk shall assign such motion a hearing date and issue a summons to the current guardian and the parent or parents. The moving party shall cause a copy of such motion and summons to be served on the child's or youth's current legal guardian(s) and the parent or parents.

(c) Before acting on such motion, the judicial authority shall determine if the court still has custody jurisdiction and shall request, if necessary, that the Commissioner of the Department of Children and Families conduct an investigation and submit a home study that sets forth written findings and recommendations before rendering a decision.

(d) The hearing on a motion for reinstatement of guardianship is dispositional in nature. The former legal guardian seeking reinstatement of guardianship has the burden of proof to establish that cause for transfer of guardianship to another person or agency no longer exists. The judicial authority shall then determine if reinstatement of guardianship is in the child's or youth's best interest.

(e) The hearing on a motion for post-dispositional modification of a guardianship order is dispositional in nature. The party seeking to modify the existing guardianship order has the burden of proof to

establish that the movant's proposed guardian is suitable and worthy. The judicial authority shall then determine if transfer of guardianship to that proposed guardian is in the child's or youth's best interest.

COMMENTARY: New Section 35a-20A contains provisions related to reinstatement of guardianship by former legal guardians, which were previously contained in Section 35a-20. The amendments to Section 35a-20 were made for consistency with *In re Zakai F.,* 336 Conn. 272, ___ A.3d ___ (2020).

Sec. 35a-21. Appeals in Child Protection Matters

(a) Unless a different period is provided by statute, appeals from final judgments or decisions of the Superior Court in child protection matters shall be taken within twenty days from the issuance of notice of the rendition of the judgment or decision from which the appeal is taken. If an extension to file an appeal is granted, the extension may not exceed an additional twenty days in all child protection appeals, except in an appeal in a termination of parental rights proceeding, the extension may not exceed an additional forty days **[**or within twenty days from the granting of any extension to appeal**]** pursuant to Section 79a-2.

(b) If an indigent party, child or youth wishes to appeal a final decision, the trial attorney shall file an appeal or seek review by an appellate review attorney in accordance with the rules for appeals in child protection matters in Chapter 79a. The reviewing attorney determining whether there is a nonfrivolous ground for appeal shall file a limited ''in addition to'' appearance with the trial court for purposes

of reviewing the merits of an appeal. If the reviewing attorney determines there is merit to an appeal, **[**such attorney**]** the reviewing attorney shall notify the court, and the court shall grant the indigent party's application for appellate counsel, who shall file a limited ''in addition to'' appearance for the appeal with the Appellate Court. The trial attorney shall remain in the underlying juvenile matters case in order to handle ongoing procedures before the local or regional juvenile court. Any attorney who files an appeal or files an appearance in the Appellate Court after an appeal has been filed shall be deemed to have appeared in the trial court for the limited purpose of prosecuting or defending the appeal.

(c) Unless a new appeal period is created pursuant to Section 79a-2 (a), the time to take an appeal shall not be extended past forty days**[**,**]** for an appeal from a judgment that did not result in a termination of parental rights (the original twenty days plus one twenty day extension for appellate review) or past sixty days for an appeal from a judgment terminating parental rights (the original twenty days plus one forty day extension for appellate review), from the date of the issuance of notice of the rendition of the judgment or decision.

COMMENTARY: The changes to this section were adopted by the judges of the Superior Court on June 26, 2020, and became effective on July 14, 2020, on an interim basis, pursuant to Section 1-9 of the Practice Book. The changes are in response to the Supreme Court opinion in *In re Taijha H.-B.*, 333 Conn. 297, 216 A.3d 601 (2019), and are intended to be consistent with revisions to the Rules of Appellate Procedure.

AMENDMENTS TO THE CRIMINAL RULES

Sec. 37-1. Arraignment; Timing, Alternative Proceedings

(a) Unless otherwise provided in this section, **[**A**]**a defendant who is not released from custody sooner shall be brought before a judicial authority for arraignment no later than the first court day following arrest. **[**Any defendant who is hospitalized, has escaped, or is otherwise incapacitated shall be presented no later than the next court day following such defendant's medical discharge or return to police custody.**]** A defendant not in custody shall appear for arraignment in person at the time and place specified in the summons or the terms of release, or at such other date or place fixed by the judicial authority.

(b) Except as provided in subsection (c) of this section, any defendant who is hospitalized, has escaped, or is otherwise incapacitated shall be presented for arraignment no later than the next court day following such defendant's medical discharge or return to police custody or a determination that the defendant is no longer incapacitated.

(c) The judicial authority may, upon motion of any party or upon its own motion, and for good cause shown, arraign remotely, via interactive audiovisual device or other remote technology, any defendant who is hospitalized or otherwise incapacitated or, if a remote arraignment is not feasible, arraign the defendant without his or her presence. Upon request, the judicial authority shall provide counsel for the defendant with a reasonable opportunity to consult with the defendant privately prior to any hearing on such motion and any arraignment conducted pursuant to this subsection. For the purposes of this subsection, ''good cause'' includes, but is not limited to, a risk that the defend-

ant's constitutional rights may be violated were the defendant's arraignment to be conducted in accordance with subsection (b) of this section.

(d) An arraignment conducted in accordance with subsection (c) of this section shall, in all other respects, be carried out in accordance with the rules and procedures otherwise applicable to arraignments, and any such arraignment shall be considered to have complied with the requirements set forth in General Statutes § 54-1g.

(e) Any defendant whom the court has arraigned pursuant to subsection (c) of this section and who has not posted bond or been otherwise released from custody prior to his or her medical discharge or a determination that he or she is no longer incapacitated shall be presented to the court no later than the next court day following his or her medical discharge or the determination that he or she no longer incapacitated.

(f) Any defendant whom the court has arraigned pursuant to subsection (c) of this section shall have the right to de novo review of any orders entered at such arraignment.

COMMENTARY: This section has been amended to allow the judicial authority to arraign a defendant remotely or without his or her presence if the defendant is hospitalized or otherwise incapacitated.

Although defendants have a fundamental constitutional right to be physically present at all critical stages of trial; *Rushen* v. *Spain*, 464 U.S. 114, 117, 104 S. Ct. 453, 78 L. Ed. 2d 267 (1983); including arraignment, this change is intended to balance a defendant's right to be physically present at arraignment with his or her other constitutional rights such as the right to counsel, the right against self-incrimination, and the right to be released on bail. This change is also intended to

provide greater First Amendment access to the public in cases where the public might otherwise be excluded from an arraignment that needs to take place in a hospital room due to the defendant's extended hospitalization. It is the intent that arraignments conducted pursuant to new subsection (c) of this section, particularly arraignments conducted without the presence of the defendant, be conducted sparingly and only upon good cause.

Sec. 37-3. —Advisement of Constitutional Rights

(a) Unless a defendant has been previously advised of his or her constitutional rights by a clerk pursuant to General Statutes § 54-64b or by a judicial authority pursuant to General Statutes § 54-1b, or unless the arraignment is proceeding without the presence of the defendant in accordance with subsection (c) of Section 37-1, the judicial authority shall, personally and in open court, advise any defendant or defendants appearing for arraignment, either individually or collectively of the following at the opening of the court session**[**The judicial authority shall personally, at the opening of the court session, in open court, advise the defendant, or the defendants, unless previously so advised by a clerk pursuant to General Statutes § 54-64b or by a judicial authority pursuant to General Statutes § 54-1b, either individually or collectively of the following**]**:

(1) That the defendant is not obligated to say anything and that anything the defendant says may be used against him or her;

(2) That the defendant is entitled to the services of an attorney;

(3) If the defendant is unable to pay for one, what the procedures are through which the services of an attorney will be provided for him or her; and

(4) That the defendant will not be questioned unless he or she consents, that the defendant may consult with an attorney before being questioned and that the defendant may have an attorney present during any questioning.

(b) If the judicial authority arraigns a defendant without his or her presence in accordance with subsection (c) of Section 37-1, the judicial authority shall order that the defendant be informed in writing of his or her rights under subsection (a) of this section as quickly as possible under the circumstances. The judicial authority shall also advise the defendant of his or her rights pursuant to subsection (a) of this section upon the defendant's first appearance in court.

COMMENTARY: This section has been amended to address the advisement of rights for defendants whom the judicial authority arraigns without his or her presence pursuant to new subsection (c) of Section 37-1.

Sec. 37-6. Appointment of Public Defender

(a) If the judicial authority determines after investigation by the public defender that the defendant is indigent, the judicial authority may designate the public defender or a **[**special**]** public defender assigned counsel to represent the defendant unless, in a misdemeanor case, at the time of the application for appointment of counsel, the judicial authority decides or believes that disposition of the pending case will not result in a sentence involving incarceration or a suspended

sentence of incarceration with a period of probation or conditional discharge, and makes a statement to that effect on the record. If the public defender or his or her office determines that a defendant is not eligible to receive the services of a public defender, the defendant may appeal the public defender's decision to the judicial authority in accordance with General Statutes § 51-297 (g). The judicial authority may not appoint the public defender or a public defender assigned counsel unless the judicial authority finds the defendant indigent following such appeal. If a conflict of interest or other circumstance exists which prevents the public defender from representing the defendant, the judicial authority, upon recommendation of the public defender or upon its own motion, may appoint a **[**special**]** public defender assigned counsel to represent the defendant.

(b) The fact that the judicial authority, in a misdemeanor case, decides or believes that disposition of the pending case will not result in a sentence involving incarceration or a suspended sentence of incarceration with a period of probation or conditional discharge, shall not preclude the judicial authority from appointing, in its discretion, a public defender or a **[**special**]** public defender assigned counsel to represent an indigent defendant.

(c) The judicial authority may designate the public defender or a public defender assigned counsel to represent a defendant who is subject to a motion to arraign such defendant remotely or without his or her presence, pursuant to subsection (c) of Section 37-1, and who is not represented by counsel. Counsel for the defendant shall file an appearance in accordance with subsection (c) of Section 3-6. Such

appearance shall expire upon the defendant's first appearance in court. If the defendant thereafter applies for public defender services, the judicial authority may designate the public defender or public defender assigned counsel to represent the defendant in full in accordance with subsection (a) of this section.

COMMENTARY: This section has been amended to ensure that any defendant subject to a motion to arraign such defendant remotely or without his or her presence pursuant to new subsection (c) of Section 37-1 can obtain counsel for the motion hearing and any arraignment conducted pursuant to that subsection. This section has also been amended to update the term ''special public defender'' to the term ''public defender assigned counsel'' to comport with the General Statutes § 51-289a (c).

Sec. 39-7. —Notice of Plea Agreement

If a plea agreement has been reached by the parties, which contemplates the entry of a plea of guilty or nolo contendere, the judicial authority shall require the disclosure of the agreement in open court or, on a showing of good cause, in camera at the time the plea is offered. Thereupon, the judicial authority may accept the plea agreement in accordance with Section 39-18, or reject the plea agreement, or may defer his or her decision on acceptance or rejection until there has been an opportunity to consider the presentence report, or may defer it for other reasons.

COMMENTARY: The change to this section clarifies that the judicial authority may only accept a plea agreement in accordance with Section 39-18.

Sec. 39-17. —Effect of Disposition Conference

If a case is not resolved at the disposition conference or if the judicial authority rejects the plea agreement, the case shall be assigned to a trial list in accordance with Section 44-15. If an agreement is reached, a judicial authority shall be available to accept guilty pleas and other dispositions.

COMMENTARY: The change to this section clarifies that the judicial authority may only assign a case to the trial list in accordance with Section 44-15.

Sec. 39-18. Plea of Guilty or Nolo Contendere; Entering

(a) In the discretion of the judicial authority, the defendant may enter a plea of guilty or nolo contendere to the information or complaint at arraignment**[**. At**]** or any later time **[**the defendant also may enter any such plea.**]**, provided that the judicial authority confirms in open court that the defendant has received all discovery materials that he or she requested in writing pursuant to Chapter 40 that are within the possession of the prosecuting authority. If the defendant has not received all requested discovery, the judicial authority shall confirm that the defendant and his or her counsel agree to waive any right to receive further disclosure, before allowing the defendant to enter the plea. Any such waiver shall not apply to the prosecuting authority's continuing obligation to disclose exculpatory information or materials pursuant to Sections 40-3 and 40-11.

(b) A plea of nolo contendere shall be in writing, shall be signed by the defendant, and, when accepted by the judicial authority, shall be followed by a finding of guilty.

COMMENTARY: The changes to this section require the judicial authority to confirm that a criminal defendant has either received all requested discovery or waives the right to receive further disclosure of requested discovery, except for exculpatory evidence, before allowing the defendant to enter a plea of guilty or nolo contendere, consistent with Open File Criminal Discovery.

Sec. 40-2. —Good Faith Efforts and Subpoenas

When documents or objects are the subject of discovery orders, good faith efforts shall be made by the party to whom any such order is directed to secure their possession. If the efforts of such party are unsuccessful the judicial authority **[**shall**]** may, upon written request or upon its own motion, issue a subpoena or order directing that such documents or objects be delivered to the clerk of the court within a specified time. The clerk shall give a receipt for them and be responsible for their safekeeping. Such documents and tangible objects shall be sealed and shall be open to inspection to the parties to the action and their attorneys only upon an order of the judicial authority.

COMMENTARY: The changes to this section provide the court with the authority to issue subpoenas and orders directing documents and objects subject to discovery orders to the clerk upon its own motion, and that such documents and objects be open to inspection only to the parties and their attorneys as the court deems appropriate.

Sec. 40-6. —Discovery Performance

(a) Unless otherwise specified by agreement of the parties or judicial order, the parties shall perform their obligations under Sections 40-1 through 40-10 by making available at reasonable times specified

information or materials for inspecting, testing, copying and photographing.

(b) Unless otherwise specified by agreement of the parties or judicial order, the parties shall provide any information or materials ordered to be disclosed or that the parties are otherwise obligated to disclose pursuant to this chapter that are within the possession, custody, or control of such parties in an electronic format via electronic means to the other party. In the event that the file size of such electronic information or materials exceeds the file size limitations for e-mailing such information or materials, the party entitled to receive such information or materials shall provide the party obligated to disclose such information or materials an electronic storage medium or electronic storage media with sufficient storage capacity to accommodate the electronic transfer of such information or materials.

COMMENTARY: The changes to this section acknowledge the prevalence of discovery information and materials generated and stored in electronic formats and provide procedures for transferring and receiving such electronic information.

Sec. 43-40. —Excluded Time Periods in Determining Speedy Trial

The following periods of time shall be excluded in computing the time within which the trial of a defendant charged by information with a criminal offense must commence pursuant to Section 43-39:

(1) Any period of delay resulting from other proceedings concerning the defendant, including but not limited to:

(A) delay resulting from any proceeding, including any examinations, to determine the mental competency or physical capacity of the defendant;

(B) delay resulting from trial with respect to other charges against the defendant;

(C) delay resulting from any interlocutory appeal;

(D) the time between the commencement of the hearing on any pretrial motion and the issuance of a ruling on such motion;

(E) delay reasonably attributable to any period, not to exceed thirty days, during which any proceeding concerning the defendant is actually under advisement by the judicial authority;

(F) delay resulting from any proceeding under General Statutes §§ 17a-685, 17a-693, et seq., 53a-39c, 54-56e, 54-56g, 54-56i, 54-56*l*, 54-56m, 54-56p, or any other pretrial diversion program authorized by statute.

(2) Any period of delay resulting from the absence or unavailability of the defendant, counsel for the defendant, or any essential witness for the prosecution or defense. For purposes of this subdivision, a defendant or any essential witness shall be considered absent when such person's whereabouts are unknown and cannot be determined by due diligence. For purposes of this subdivision, a defendant or any essential witness shall be considered unavailable whenever such person's whereabouts are known but his or her presence for trial cannot be obtained by due diligence or he or she resists appearing at or being returned for trial.

(3) Any period of delay resulting from the fact that the defendant is mentally incompetent or physically unable to stand trial.

(4) A reasonable period of delay when the defendant has been joined for trial with a codefendant as to whom the time for trial has not run and no motion for severance has been granted.

(5) Any period of time between the date on which a defendant or counsel for the defendant and the prosecuting authority agree that the defendant will plead guilty or nolo contendere to the charge and the date the judicial authority accepts or rejects the plea agreement.

(6) Any period of time between the date on which the defendant enters a plea of guilty or nolo contendere and the date an order of the judicial authority permitting the withdrawal of the plea becomes final.

(7) Except as provided in Section 43-40A, **[**T**]**the period of delay resulting from a continuance granted by the judicial authority at the personal request of the defendant, including any period of delay resulting from a continuance requested because the prosecuting authority has failed to disclose discovery materials within any applicable time period prescribed in Chapter 40 if the prosecuting authority's failure is because of the unavailability of such discovery materials and the prosecuting authority has exercised due diligence to obtain such discovery materials.

(8) The period of delay resulting from a continuance granted by the judicial authority at the request of the prosecuting authority**[**,**]** if:

(A) the continuance is granted because of the unavailability of evidence material to the state's case, when the prosecuting authority has exercised due diligence to obtain such evidence and there are

reasonable grounds to believe that such evidence will be available at a later date; or

(B) the continuance is granted to allow the prosecuting authority additional time to prepare the state's case and additional time is justified because of the exceptional circumstances of the case.

(9) With respect to a defendant incarcerated in another jurisdiction, the period of time until the defendant's presence for trial has been obtained, provided the prosecuting authority has exercised reasonable diligence (A) in seeking to obtain the defendant's presence for trial upon receipt of a demand from the defendant for trial, and (B) if the defendant has not theretofore demanded trial, in filing a detainer with the official having custody of the defendant requesting that official to advise the defendant of the defendant's right to demand trial.

(10) Other periods of delay occasioned by exceptional circumstances.

COMMENTARY: The change to subdivision (F) of subsection (1) of this section makes that provision consistent with the current available diversionary programs. The change to subsection (7) of this section provides for an exception to the time periods excluded from the speedy trial calculation when a defendant requests a continuance as provided in new Section 43-40A. This change also makes clear that the delay from continuances requested by the defendant because the prosecuting authority has failed to disclose discovery materials by the applicable deadline will still be excluded from the speedy trial calculation if the prosecuting authority is unable, despite the exercise of due diligence,

to meet the applicable deadline because the discovery material is unavailable.

(NEW) Sec. 43-40A. —Included Time Period in Determining Speedy Trial; Failure to Comply with Disclosure by Prosecuting Authority

The time for trial set forth in Section 43-39 shall continue to run during any period of delay resulting from a continuance granted by the judicial authority at the request of the defendant on the basis of the prosecuting authority's wilful failure to disclose discovery materials within any applicable time period prescribed in Chapter 40. During any such continuance, the judicial authority may issue subpoenas, pursuant to Sections 40-2 and 40-20, to assist in the timely completion of discovery.

COMMENTARY: This new section allows the speedy trial calculation to run during any continuance granted on the basis of the prosecuting authority's wilful failure to disclose discovery materials, as required by Chapter 40, consistent with Open File Criminal Discovery. The wilful failure described in this new section, which allows the speedy trial calculation to continue to run, contrasts with the prosecuting authority's inability to disclose discovery materials despite the exercise of due diligence described in Section 43-40 (7), which does not allow the speedy trial calculation to continue to run. This section also authorizes the judicial authority to exercise its existing subpoena power to assist in the timely completion of discovery.

Sec. 44-7. Presence of Defendant; Attire of Incarcerated Defendant or Witness

The defendant has the right to be present at the arraignment, at the time of the plea, at evidentiary hearings, at the trial, and at the sentencing hearing, except as provided in Section 37-1 and Sections 44-7 through 44-10. Whenever present, the defendant shall be seated where he or she can effectively consult with counsel and can see and hear the proceedings. An incarcerated defendant or an incarcerated witness shall not be required during the course of a trial to appear in court in the distinctive attire of a prisoner or convict.

COMMENTARY: This section has been amended to address new subsection (c) of Section 37-1, which authorizes the judicial authority to arraign the defendant remotely or without his or her presence in limited circumstances.

Sec. 44-15. —Scheduling at Entry of Plea

(a) Upon entry of a not guilty plea, the judicial authority shall, whenever feasible, assign a date certain for the trial of such case, and in jury cases, for a disposition conference pursuant to Sections 39-11 through 39-13, and it shall advise all parties that they are to be prepared to proceed to trial or to a disposition conference on that date.

(b) Prior to assigning any date certain for trial, the judicial authority shall inquire of the parties whether discovery pursuant to Chapter 40 is complete.

If discovery is not complete, the judicial authority shall continue the case for the timely completion of discovery. During any such continuance, the judicial authority may issue subpoenas, pursuant to Sections 40-2 and 40-20, to assist in the timely completion of discovery.

If discovery is complete, the judicial authority may assign a date certain for trial no earlier than forty-five days after the completion of discovery unless the defendant moves for a speedy trial pursuant to Section 43-41.

(c) If the setting of a definite date at the time of the not guilty plea is not feasible, the case shall be placed on a trial list of pending cases which shall be maintained by the clerk. Cases shall be placed on the trial list in the order in which the not guilty pleas were entered, but in no event shall a trial commence earlier than forty-five days after the completion of discovery in the case unless the defendant moves for a speedy trial pursuant to Section 43-41.

(d) If, after the judicial authority has assigned a date certain for trial or has assigned the case to the trial list pursuant to this section, either party identifies and produces any evidence or witness that is required to be disclosed pursuant to Chapter 40, the opposing party may move the judicial authority for an order in accordance with Section 40-5, including, but not limited to, moving for a continuance or an order prohibiting the producing party from introducing the delayed discovery at trial.

COMMENTARY: The changes to this section require the judicial authority to confirm that discovery is complete before scheduling a date certain for trial or placing the case on the trial list and authorizes the judicial authority to exercise its subpoena power to assist in the timely completion of discovery, consistent with Open File Criminal Discovery. The changes also authorize the judicial authority to exercise its existing authority to, upon motion, make any order it deems appropriate to address delayed discovery disclosure.

NEW PRACTICE BOOK FORMS

(NEW) Form 218

Defendant's Interrogatories

Medical Negligence

NO. CV -	: SUPERIOR COURT
(Plaintiff)	: JUDICIAL DISTRICT OF
VS.	: AT
(Defendant)	: DATE

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

Definition: ''You'' or ''your'' shall mean the Plaintiff to whom these interrogatories are directed, except that if a lawsuit has been instituted by the representative of the estate of a decedent, ward, or incapable person, ''you'' shall also refer to the Plaintiff's decedent, ward or incapable person unless the context of an interrogatory clearly indicates otherwise.

In answering these interrogatories, the Plaintiff(s) is (are) required to provide all information within their 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 and any other name(s) by which you have been known;

(b) Your date of birth;

(c) Your current home address;

(d) Your home address as of the time of the negligence alleged in the Complaint; and

(e) Your home address for the five years prior to and since the negligence alleged in the Complaint.

(2) State your marital status at the time of and since the negligence alleged in the Complaint and, if married, provide the date of the marriage, the full legal name, and current address of your spouse.

(3) State the full legal names and ages of each person with whom you have lived at or since the time of the negligence alleged in the Complaint and identify each time period.

(4) State the full legal names and ages of your children. For each child, identify the time periods during which they resided with you at or since the time of the negligence alleged in the Complaint.

(5) Identify and list each physical and mental injury or condition you claim to have sustained as a result of the negligence alleged in the Complaint.

(6) If you were treated at a hospital for injuries and conditions sustained as a result of the negligence alleged in the Complaint, state the name and location of each hospital and the dates of such treatment and admission.

(7) State the name and address of each physician or other health care provider who treated you for the injuries and conditions you sustained as a result of the negligence alleged in the Complaint.

(8) When and from whom did you last receive any medical treatment for injuries and conditions alleged to have been sustained as a result of the negligence alleged in the Complaint?

(9) Identify the date you last received medical services or treatment from the Defendant.

(10) State the date you fully recovered from the injuries and conditions alleged in your Complaint?

(11) If you are not fully recovered, state precisely from what injuries and conditions you are presently suffering.

(12) Are you presently under the care of any physician or other health care provider for the treatment of injuries and conditions alleged to have been sustained as a result of the negligence alleged in your Complaint?

(13) If the answer to the prior interrogatory is in the affirmative, state the name and address of each physician or other health care provider who is treating you.

(14) Do you claim any disability resulting from injuries and conditions allegedly sustained as a result of the negligence alleged in your Complaint?

(15) If so, state the nature of the disability claimed.

(16) Do you claim any permanent disability resulting from the negligence alleged in the Complaint?

(17) If the answer to the prior interrogatory is in the affirmative, answer the following:

(a) List the parts of your body which are disabled;
(b) List the motions, activities or use of your body which you have lost or which you are unable to perform;
(c) State the percentage of loss of use claimed as to each part of your body;
(d) State the name and address of the person who made the prognosis for permanent disability and the percentage of loss of use; and
(e) List the date for each such prognosis.

(18) If you were or are confined to your home or your bed as a result of injuries and conditions sustained as a result of the negligence alleged in your Complaint, state the dates you were so confined.

(19) Identify any nonprivileged medical reports received by you or your attorney relating to your alleged injuries and conditions by stating the name and address of the treating physician or other health care provider, and any physician or health care provider you anticipate calling as a trial witness, who provided such reports and the date of the report.

(20) List each item of expense which you claim to have incurred as a result of the negligence alleged in your Complaint, and state the name and address of the person or organization to whom each item has been paid or is payable.

(21) For each item of expense identified in response to the prior interrogatory, if any such expense, or portion thereof, has been paid or reimbursed or is reimbursable by an insurer, state, as to each such item of expense, the name of the insurer that made such payment or reimbursement or that is responsible for such reimbursement.

(22) If, during the ten year period prior to the date of the negligence alleged in the Complaint, you were under a physician's or other health care provider's care for any conditions which were in any way similar or related to those identified and listed in your response to Interrogatory #5, state the nature of said injuries or conditions, the dates you received treatment, and the name of the physician or other health care provider who provided treatment for the prior condition.

(23) State whether you have ever filed a claim or lawsuit for physical or mental injury or condition. If so, state the caption, venue and docket number of any such lawsuit.

(24) If you were involved in any incident in which you received physical or mental injuries or conditions since the date of the negligence alleged in the Complaint, provide the following information:

(a) On what date and in what manner did you sustain said injuries?

(b) Did you make a claim against anyone as a result of said incident?

(c) If so, provide the name and address of the person or persons against whom a claim was made;

(d) If a lawsuit was brought, state the name and location of the Court, the return date of the lawsuit, and the docket number;

(e) State the nature of the physical or mental injuries or conditions received in said incident;

(f) State the name and address of each physician or health care provider who treated you for said injuries or conditions;

(g) State the dates on which you were so treated;

(h) State the nature of the treatment received on each such date; and

(i) If you are presently or permanently disabled as a result of said injuries, state the nature of such disability, the name and address of each physician or health care provider who diagnosed said disability and the date of each such diagnosis.

(25) At the time of the negligence alleged in your Complaint or thereafter, have you filed a personal bankruptcy petition? If yes, identify the type of bankruptcy, the court and court address, caption and docket number, name and address of trustee and whether the petition is pending or has been discharged.

(26) List all secondary schools and colleges you attended, the years attended, and degrees conferred, if any.

(27) If you claim that as a result of the negligence alleged in your Complaint you were prevented from pursuing your usual occupation, or otherwise lost time from work, provide the following information:

(a) The name and address of your employer on the date of the negligence alleged in the Complaint;

(b) The nature of your occupation and a precise description of your job responsibilities with said employer on the date of the negligence alleged in the Complaint;

(c) Your average, weekly earnings, salary, or income received from said employment for the year preceding the date of the negligence alleged in the Complaint;

(d) The date following the date of the negligence alleged in the Complaint on which you resumed the duties of said employment;

(e) Any loss of income you claim resulted from the negligence alleged in your Complaint and how the loss is computed;

(f) The dates you were unable to perform the duties and lost time from work as a result of injuries or conditions claimed to have been sustained as a result of the negligence alleged in your Complaint; and

(g) The names and addresses of each employer for whom you worked for three years prior to the date of the negligence alleged in your Complaint.

(28) Do you claim an impairment of earning capacity?

(29) State whether you made an application(s) for life/disability insurance in the past ten years, and if so state the date of the application(s).

(30) Identify the administrative/funeral and burial expenses incurred on behalf of the Plaintiff, if applicable, as well as the date such expenses were incurred, the recipient of such monies and the identity of the individual who paid such expenses.

(31) If you are introducing the condition of your mental health as an element of a claim in this lawsuit, state whether you have sought treatment with a mental health provider, including but not limited to a psychiatrist, psychologist, therapist, or counselor, in the ten years prior to, or subsequent to the negligence alleged in the Complaint.

COMMENT:

Where appropriate, and where the Plaintiff does not consent to the production of the mental health records, the Defendant may seek a court order for the production of the records.

(32) Has any treating physician or other health care provider told you directly that the above-named Defendant(s) failed to adhere to the acceptable standard of care in any respect?

(33) If the answer to the preceding interrogatory is in the affirmative, state the name and address of each such physician or health care provider, the date each communication was made and the content of any such communication.

(34) If you have signed a covenant not to sue, a release or discharge of any claim you had, have or may have against any person, corporation or other entity as a result of the negligence alleged in your Complaint, state in whose favor it was given, the date thereof, and to the extent it is not subject to a confidentiality agreement, the consideration paid to you for giving it. If you are unable to respond to this interrogatory, in whole or in part, due to a confidentiality agreement, state so.

(35) If you or anyone on your behalf agreed to or contracted with any person, corporation or other entity to limit in any way the liability of such person, corporation or other entity as a result of any claim you have or may have as a result of the negligence alleged in your Complaint, state in whose favor it was given, the date thereof, and to the extent it is not subject to a confidentiality agreement, the consideration

paid to you for giving it. If you are unable to respond to this interrogatory due to a confidentiality agreement, state so.

(36) State the names and addresses of all persons known to you who were present at the time of the negligence alleged in your Complaint or who observed or witnessed all or part of the care provided by the Defendant.

(37) As to each individual named in response to the preceding interrogatory, state whether to your knowledge, or the knowledge of your attorney, such individual has given any statement or statements as defined in Practice Book Section 13-1 concerning the subject matter of your Complaint or alleged injuries and conditions. If your answer to this interrogatory is affirmative, state also:

(a) The date on which such statement or statements were taken;

(b) The names and addresses of the person or persons who took such statement or statements;

(c) The names and addresses of any person or persons present when such statement or statements were taken;

(d) Whether such statement or statements were written, made by recording device or taken by court reporter or stenographer; and

(e) The names and addresses of any person or persons having custody or a copy or copies of such statement or statements.

(38) Have you made any statements, as defined in Practice Book Section 13-1, to any person regarding any of the events alleged in your Complaint?

(39) State the name and address of any person(s) who you may call as a fact witness at trial of this matter regarding the claims of damage alleged by Plaintiff(s) in the Complaint.

COMMENT:

These individuals or witnesses shall be disclosed, except for good cause shown, no later than sixty days prior to trial and may be thereafter deposed.

(40) Have you documented in any form any of the events, injuries, or conditions alleged in your Complaint? State whether any privilege is claimed.

(41) Are you aware of any photographs or any recordings by film, video, audio or any other digital or electronic means depicting the negligence alleged in the Complaint, the care provided by the Defendant or any injury or condition alleged to have been caused by the negligence alleged in the Complaint? If so, for each set of photographs or each recording taken, obtained or prepared of each such subject, state:

(a) The name and address of the person who took, obtained or prepared such photograph or recording, other than an expert who will not testify at trial;

(b) The dates on which such photographs were taken or such recordings were obtained or prepared;

(c) The subject;

(d) The number of photographs or recordings;

(e) The nature of the recording (e.g., film, video, audio, etc.).

(42) Identify surveillance material discoverable under Practice Book Section 13-3 (c), by stating the name and address of any person who obtained or prepared any and all recordings, by film, photograph, videotape, audiotape or any other digital or electronic means, of any party concerning this lawsuit or its subject matter, including any transcript thereof which are in your possession or control or in the possession or control of your attorney, and state the date on which each such recordings were obtained and the person or persons of whom each such recording was made.

(43) Have you ever filed a claim/application for Social Security Disability and/or any form of government disability including military?

(44) If the answer to the preceding interrogatory is in the affirmative, state:

(a) The dates of all such applications;

(b) The reasons for seeking disability, including all listed medical conditions;

(c) How the listed medical conditions caused you to be disabled;

(d) The dates you were deemed disabled;

(e) The names and addresses of any physicians or health care providers whom you saw for disability evaluations; and,

(f) The address of any disability offices involved in obtaining such benefits.

Interrogatories #45 through #52 apply in wrongful death cases:

(45) If the decedent underwent a physical examination for any reason including, but not limited to, examinations related to employment, or

employment applications within the five (5) years prior to the date of the negligence alleged in the Complaint, please state:

(a) The date(s) the exam was performed; and

(b) The name and address of the physician or health care provider who performed each exam.

(46) If a claim for loss of earning capacity is being made, please state the decedent's average monthly personal living expenses for the two (2) years preceding his/her death including, but not limited to, the decedent's food, rent and housing, clothing, transportation, and medical and dental care.

(47) Did the decedent suffer from any illness, injury, disease, condition, disability or defect from the time of the negligence alleged in the Complaint to the time of death? If so, please identify the illness, injury, disease, condition, disability or defect.

(48) If you are claiming that any preexisting physical or mental condition exacerbated, contributed to, or accelerated the decedent's death, identify the condition(s) and physician or health care provider(s) treating the decedent for those condition(s) in the ten years prior to his or her death.

(49) Other than what is contained in the medical records, are you aware of any treating physician, physician's assistant (P.A.), or advanced practice registered nurse (APRN) who discussed the primary cause of the decedent's death with a patient representative? If so, please identify that individual and the substance of that conversation.

(50) Was an autopsy and/or postmortem toxicology testing ever performed on the decedent? If the answer is yes, state:

(a) The name of the person who ordered or requested the autopsy;

(b) The date the autopsy was performed;

(c) The place where the autopsy was performed;

(d) The name of the individual who performed the autopsy; and

(e) The findings of the autopsy and/or postmortem toxicology testing.

(51) Have any entries, memoranda, and/or declarations, as defined in General Statutes § 52-172, been made by the Plaintiff concerning the issues alleged in the Complaint?

(52) If the answer to the foregoing interrogatory is affirmative, state:

(a) The date on which such entries, memoranda, and/or declarations were made;

(b) The form of the entries, memoranda, and/or declarations (i.e., whether oral, written, made by recording device or recorded by a stenographer, etc.);

(c) The substance or content of such entries, memoranda, and/or declarations;

(d) The name and address of each person having custody or a copy or copies of the entries, memoranda, and/or declarations; and

(e) The name and address of any witnesses to such entries, memoranda, and/or declarations.

Interrogatory #53 applies to cases involving a minor Plaintiff:

(53) If the minor Plaintiff attends or has attended a day care, preschool, school or camp on a regular basis from the time of the negligence alleged in the Complaint to the present time, state:

(a) The name and address of the institution or facility;

(b) The amount of time each day that the minor Plaintiff attended there; and,

(c) The dates of attendance.

DEFENDANT,

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.

_____

(Plaintiff)

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 that written consent for electronic delivery was received from all attorneys and self-represented parties of record who received or will immediately be 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 was developed pursuant to and is to be used in connection with the changes to Section 13-6.

(NEW) Form 219

Defendant's Request for Production

Medical Negligence

NO. CV -	: SUPERIOR COURT
(Plaintiff)	: JUDICIAL DISTRICT OF
VS.	: AT
(Defendant)	: DATE

The Defendant(s) hereby request(s) that the Plaintiff provide counsel for the Defendant(s) with copies of the documents described in the following requests for production, or afford counsel for said Defendant(s) the opportunity or, where requested, sufficient written authorization, to inspect, copy, photograph or otherwise reproduce said documents. The production of such documents, copies or written authorizations shall take place at the offices of _____ not later than sixty (60) days after the service of the Requests for Production.

In answering these production requests, the Plaintiff(s) are required to provide all information within their possession, custody or control. If any production request cannot be answered in full, answer to the extent possible.

(1) All hospital records relating to treatment received as a result of the negligence alleged in the Complaint, and to injuries, diseases or defects to which reference is made in the answers to Interrogatories #6 and #24 (exclusive of any records relating to mental health injuries or conditions), or written authorization, sufficient to comply with the

provisions of the Health Insurance Portability and Accountability Act (HIPAA), to inspect and make copies of the hospital records. Information obtained pursuant to the provisions of HIPAA shall not be used or disclosed by the parties for any purpose other than the above captioned action.

(2) All reports and records of all physicians and other health care providers relating to treatment allegedly received by the Plaintiff(s) as a result of the negligence alleged in the Complaint and to the injuries, diseases or defects to which reference is made in the answers to Interrogatories #7, #22, and #24 (exclusive of any records relating to mental health injuries or conditions) or written authorization, sufficient to comply with provisions of HIPAA, to inspect and make copies of said reports. Information obtained pursuant to the provisions of HIPAA shall not be used or disclosed by the parties for any purpose other than the above captioned action.

(3) If a claim of impaired earning capacity or lost wages is being alleged, copies of, or sufficient written authorization to obtain copies of, that part of all income tax returns relating to lost income filed by the Plaintiff(s) for a period of three (3) years prior to the date of the negligence alleged in the Complaint and for all years subsequent to the date of the negligence alleged in the Complaint through the time of trial.

(4) If a claim for lost wages or lost earning capacity is being made, copies of, or sufficient written authorization to inspect and make copies of, the wage and employment records of all employers of the Plaintiff(s)

for three (3) years prior to the negligence alleged in the Complaint and for all years subsequent to the date of the negligence alleged in the Complaint.

(5) A copy of any nonprivileged statement, as defined in Practice Book Section 13-1, of any party to this lawsuit concerning this action or its subject matter.

(6) All medical bills that are claimed to have been incurred as a result of the negligence alleged in the Complaint or written authorization, sufficient to comply with the provisions of HIPAA, to inspect and make copies of said medical bills. Information obtained pursuant to the provisions of HIPAA shall not be used or disclosed by the parties for any purpose other than the above captioned action.

(7) All bills for each item of expense that are claimed to have been incurred in the answer to Interrogatories #20 and #30, and not already provided in response to Production Request #6.

(8) Copies of all documents pertaining to claims of right to reimbursement provided to the Plaintiff by third-party payers, and copies of, or written authorization, sufficient to comply with provisions of HIPAA, to obtain any and all documentation of payments made by a third party for medical services received or premiums paid to obtain such payment. Information obtained pursuant to the provisions of HIPAA shall not be used or disclosed by the parties for any purpose other than the above-captioned action.

(9) All documents identified or referred to in the answers to Interrogatory #34 unless a claim of confidentiality has been stated.

(10) Nonprivileged copies, whether in hard copies or electronic media, of any and all documentation referenced in Interrogatory #40.

(11) A copy of each and every recording of surveillance material discoverable under Practice Book Section 13-3 (c), by film, photograph, videotape, audiotape or any other digital or electronic means, of any party to this lawsuit concerning this lawsuit or the subject matter thereof, including any transcript of such recording.

(12) Copies of any and all documents and communications concerning any and all of your disability claim(s) with the issuing governmental office as set forth in Interrogatory #43, excluding any material which is claimed to be protected by attorney-client privilege or other applicable privilege. In addition, written authorization, in the form attached, permitting the undersigned to obtain a full and complete copy of Plaintiff's social security disability file.

(13) Any and all photographs or recordings identified in response to Interrogatory #41.

Requests for Production #14 through #19 apply in wrongful death cases:

(14) A copy of the probate appointment, identifying the Plaintiff as Administrator of the subject estate.

(15) A copy of the death certificate.

(16) A copy of any autopsy report and/or postmortem toxicology testing report.

(17) Copies of declarations of the Plaintiff that your attorney intends to use at time of trial pursuant to General Statutes § 52-172.

(18) Any documents, written or digital recordings, entries, memoranda, and/or transcripts of digital recordings offered pursuant to General Statutes § 52-174.

(19) Copies of or an authorization to obtain the records referenced in Interrogatory #45.

Request for Production #20 applies to cases involving a minor Plaintiff:

(20) Copies of all education records, attendance records, nurses' records, and materials from each day care, preschool, school, or other educational institution the minor Plaintiff has attended (exclusive of any records relating to mental health injuries or conditions) for the last five years to the present or written authorization in the form attached permitting the undersigned to inspect and to make copies of said educational records.

DEFENDANT,

BY_____

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 that written consent for electronic delivery was received from all attorneys and self-represented parties of record who received or will immediately be 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 was developed pursuant to and is to be used in connection with the changes to Section 13-9.

EDUCATION / SCHOOL RECORDS AUTHORIZATION

TO:

(Any educational institution, including any school, special education program, remedial education program, developmental program, including special treatment, teacher aides and assistance that has provided educational services to):

_____

(insert name above)

I hereby authorize you to release copies of the records of _____, including educational records to **(**defense firm name**)**, or its authorized representative. ''Educational records'' for purposes of this authorization shall include, but not be limited to, attendance records, medical records, occupational therapy records, nurses' notes, progress reports, teacher notes, report cards, achievement scores, evaluations, teacher progress notes, transcripts, social worker's records, and correspondence.

This authorization does not expire until expressly withdrawn by the undersigned.

A copy of this authorization is deemed as valid as the original.

_____

Signature of patient or patient's representative Date

If a patient's representative signs this authorization, please complete the following:

_____ _____

Printed name of patient's representative: Relationship to patient

COMMENTARY: This new form is to be used in connection with Request for Production #20.

DAY CARE / CHILD CARE / HOME CARE

RECORDS AUTHORIZATION

TO:

(Any day care, child care, home care provider that has provided services to)

_____

(insert name above)

I hereby authorize you to release copies of the records of _____, including educational records to **(**defense firm name**)**, or its authorized representative. ‘‘Records" for purposes of this authorization shall include, but not be limited to, attendance records, medical records, occupational therapy records, nurses’ notes, progress reports, teacher notes, report cards, achievement scores, evaluations, teacher progress notes, transcripts, social worker’s records, and correspondence.

This authorization does not expire until expressly withdrawn by the undersigned.

A copy of this authorization is deemed as valid as the original.

_____

Signature of patient or patient’s representative Date

If a patient’s representative signs this authorization, please complete the following:

_____ _____

Printed name of patient’s representative: Relationship to patient

COMMENTARY: This new form is to be used in connection with Request for Production #20.

(NEW) Form 220

Plaintiff's Interrogatories

Medical Negligence—Health Care Provider

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

The undersigned, on behalf of the Plaintiff(s), hereby propounds the following Interrogatories to be answered by the Defendant, _____ (Defendant Health Care Provider's Name), under oath, within sixty (60) days of the filing hereof in compliance with Practice Book Section 13-2.

Definition: ''You'' or ''your'' shall mean the Defendant to whom these interrogatories are directed, except that if that Defendant has been sued as the representative of the estate of a decedent, ward, or incapable person, ''you'' or ''your'' shall also refer to the Defendant's decedent, ward or incapable person unless the context of an interrogatory clearly indicates otherwise.

In answering these interrogatories, the Defendant(s) is (are) required to provide all information within their 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 and any other name(s) by which you have been known;

(b) Your date of birth; and

(c) Your business address.

(2) If the Defendant is deceased, state the date and place of death, whether an estate has been created, and the name and address of the Administrator or Executor thereof.

Unless the information requested is provided in your curriculum vitae, respond to Interrogatories #3 through #11:

(3) State the name of each college and graduate school you attended, the date of graduation, and each degree obtained, or provide your curriculum vitae including such information.

(4) State the name and address of each medical institution where you underwent post-graduate training (e.g., internship, residency, fellowship, or similar training), and the dates of attendance, or provide your curriculum vitae including such information.

(5) If you have been trained in a medical or surgical specialty, identify the specialty, the dates you practiced the specialty, and the name and address of each institution where you were trained, or provide your curriculum vitae including such information.

(6) If you have ever specialized in or limited your practice to a particular field or branch of medicine or surgery, for each specialized or limited practice, state the field or branch of medicine or surgery, the inclusive dates you so practiced, and each location where you so practiced in the past ten years, or provide your curriculum vitae including such information.

(7) If you have held any teaching positions, for each institution, state:

(a) The name and address of the institution;

(b) The inclusive dates of your association; and

(c) The title held in each position.

(8) State the name and location of any hospital or medical facility at which you have or have had appointments and/or clinical privileges in the past ten years, and the dates you had such appointments or privileges.

(9) Identify each medical book, paper, article, or other document that you have published, written, or contributed, and for each, state the title, whether you were an author, co-author, or contributor.

(10) State the name of every jurisdiction in which you are or have been licensed as a health care provider.

(11) State whether you are, or have ever been, a member of any medical or other health care provider association, society or organization, and if so, as to each such membership, state:

(a) The name and address of the medical or other health care provider association, society, or organization;

(b) The inclusive dates of your membership; and

(c) Whether you have ever held any office and, if so, the title of the office and the dates you held such office.

(12) With respect to any medical specialty board or other specialty board, for each board state, whether you were refused or granted certification, the reasons therefor, and, if granted certification, your title or rank (e.g., diplomate, fellow, member), and whether you still hold such certification, title, or rank.

(13) During the past ten years have you ever had your privileges or application for privileges denied, revoked, restricted, suspended, or limited in any way at any hospital or medical facility?

(14) Unless agency or another vicarious liability relationship is admitted to such codefendant, state whether at the time of the negligence alleged in the Complaint to the present you were an officer, shareholder, employee, member, partner, or otherwise affiliated with any entity or person involved in the care and treatment of the Plaintiff. If the answer is yes, describe the nature and time period of the affiliation.

(15) During the ten years prior to the negligence alleged in the Complaint, have you ever had your application for a license denied, revoked, restricted, suspended, or limited in any way in any jurisdiction?

(16) State the time period(s) of the physician-patient relationship, if any, you had with the Plaintiff.

(17) With respect to the negligence alleged in the Complaint, did you ever consult with any physician or other health care provider regarding your diagnosis, care, or treatment of the Plaintiff that is not documented in the medical record? If so, identify the person consulted, his or her specialty, and the reason for the consultation.

(18) Are you aware of any nonprivileged documents concerning consultations, care or treatment of the Plaintiff regarding the negligence alleged in the Complaint that are not contained in the medical records or hospital chart? If so, identify each document.

(19) If you are covered by an insurance policy under which an insurer may be liable to satisfy part or all of a judgment or reimburse you for

payments to satisfy part or all of a judgment relating to the negligence alleged in the Complaint, state the following:

(a) The name(s) and address(es) of the insured(s);

(b) The amount of coverage under each insurance policy; and

(c) The name(s) and address(es) of said insurer(s).

(20) If you are covered by an excess or umbrella insurance policy, or any other insurance policy relating to the negligence alleged in the Complaint, state:

(a) The name(s) and address(es) of the named insured;

(b) The amount of effective coverage; and

(c) The name(s) and address(es) of the insurer(s).

(21) As to each insurance policy identified in response to the preceding two interrogatories, state whether:

(a) Any disclaimer or reservation of rights letter has been issued; and

(b) It is an eroding policy.

(22) Pursuant to General Statutes § 19a-17b, were your staff privileges terminated or restricted by a medical review committee conducting a peer review with respect to the negligence alleged in the Complaint? If so, please disclose the specific restriction imposed, if any.

(23) Have you or any entity or person been sued for medical negligence arising out of your conduct as a health care provider? If so, state the caption, venue and docket number of the lawsuit(s).

(24) Have you made any statements, as defined in Practice Book Section 13-1, to any person regarding any of the allegations in the Complaint?

COMMENT:

Interrogatory #24 is intended to include party statements made to a representative of an insurance company prior to involvement of defense counsel.

(25) If the answer to the previous interrogatory is affirmative, state:

(a) The name and address of the person or persons to whom such statements were made;
(b) The date on which such statements were made;
(c) The form of the statement (i.e., whether written, made by recording device or recorded by a stenographer, etc.); and
(d) The name and address of each person having custody or a copy of each statement.

(26) Other than those individuals referenced in the medical record, state the names and addresses of all persons known to you who were present at the time of the negligence alleged in the Complaint or who observed or witnessed all or part of the negligence alleged in the Complaint.

(27) As to each individual named in response to the previous interrogatory, state whether, to your knowledge or the knowledge of your attorney, the individual(s) has given any statement or statements, as defined in Practice Book Section 13-1, concerning the subject matter of the Complaint. If your answer to this interrogatory is affirmative, state:

(a) The date on which the statement(s) were taken;

(b) The names and addresses of the person(s) who took the statement(s);

(c) The names and addresses of any person(s) present when the statement(s) taken;

(d) Whether the statement(s) were written, made by recording device or taken by court reporter or stenographer;

(e) The names and addresses of any person(s) that have custody or copies of the statement(s).

(28) State whether the Plaintiff was referred to you, and if so, identify the person or entity that made the referral and the date thereof.

(29) Did you create, use, or maintain any ''electronic protected health information'' (hereinafter ''health information''), as defined in 45 C.F.R. § 160.103, during your treatment of Plaintiff?

(30) If the answer to the previous interrogatory is in the affirmative, list the names of any and all electronic ''information system(s)'' (hereinafter ''EMR system([s])''), as defined in 45 C.F.R. § 164.304, that contain or previously contained the health information of the Plaintiff.

(31) Identify surveillance material discoverable under Practice Book Section 13-3 (c), by stating the name and address of any person who obtained or prepared any and all recordings, by film, photograph, videotape, audiotape or any other digital or electronic means, of any party concerning this lawsuit or its subject matter, including any transcripts which are in your possession or control or in the possession or control of your attorney, and state the date on which each

recording(s) was obtained and the person or persons of whom each such recording was made.

PLAINTIFF,

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.

_____
(Defendant)

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 that written consent for electronic delivery was received from all attorneys and self-represented parties of record who received or will immediately be 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 was developed pursuant to and is to be used in connection with the changes to Section 13-6.

(NEW) Form 221

Plaintiff's Interrogatories

Medical Negligence—Hospital and/or Medical Group

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

The undersigned, on behalf of the Plaintiff(s), hereby propounds the following Interrogatories to be answered by the Defendant, _____ (Defendant Hospital's Name), under oath, within sixty (60) days of the filing hereof in compliance with Practice Book Section 13-2.

Definition: ''You'' and ''your'' shall mean the Defendant, and its agents, servants, or employees to whom these interrogatories are directed.

In answering these interrogatories, the Defendant(s) is (are) required to provide all information within their 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 and any other name(s) by which you have been known; and

(b) Your business address.

(2) If you are a business entity that has changed its name or status as a business entity (whether by dissolution, merger, acquisition, name change, or in any other manner) since the negligence alleged in the Complaint, state the date of the change, and describe the change.

(3) Unless agency or another vicarious liability relationship is admitted as to such codefendant, state whether from the time of the negligence alleged in the Complaint to the present you were a shareholder, partner, or otherwise affiliated with any codefendant. If the answer is yes, describe the nature and time period of the affiliation.

(4) With respect to the negligence alleged in the Complaint, did you ever consult with any physician(s) or health care provider(s) regarding your diagnosis, care, or treatment that is not documented in the medical record? If so, identify the person(s) consulted and their specialty as well the reason for the consult.

(5) Are you aware of any nonprivileged documents concerning consultations, care or treatment regarding the negligence alleged in the Complaint that are not contained in the medical record or hospital chart? If so, identify each document.

(6) If you are covered by an insurance policy under which an insurer may be liable to satisfy part or all of a judgment or reimburse you for payments to satisfy part or all of a judgment relating to the negligence alleged in the Complaint, state the following:

(a) The name(s) and address(es) of the insured(s);
(b) The amount of coverage under each insurance policy; and
(c) The name(s) and address(es) of said insurer(s).

(7) If you are covered by excess or umbrella insurance or any other insurance relating to the negligence alleged in the Complaint, state:

(a) The name(s) and address(es) of the named insured(s);

(b) The amount of coverage effective at this time; and

(c) The name(s) and address(es) of said insurer(s).

(8) As to each insurance policy identified in response to the preceding two interrogatories, state whether:

(a) Any disclaimer or reservation of rights letter has been issued; and

(b) It is an eroding policy.

(9) Have you made any statements, as defined in Practice Book Section 13-1, to any person regarding any of the allegations in the Complaint?

COMMENT:

Interrogatory #9 is intended to include party statements made to a representative of an insurance company prior to involvement of defense counsel. This interrogatory is not intended to include attorney–client communications.

(10) If the answer to the previous interrogatory is affirmative, state:

(a) The name and address of the person(s) to whom the statement(s) were made;

(b) The date the statement(s) were made;

(c) The form of the statement(s) (i.e., whether written, made by recording device or recorded by a stenographer, etc.); and

(d) The name and address of the person(s) having custody or copies of the statement(s).

(11) Other than those individuals referenced in the medical record, state the names and addresses of all persons known to you who were present at the time of the negligence alleged in the Complaint or who observed or witnessed all or part of the negligence alleged in the Complaint.

(12) As to each individual named in response to the previous interrogatory, state whether to your knowledge, or the knowledge of your attorney, the individual(s) has given any statement(s) as defined in Practice Book Section 13-1, concerning the subject matter of the Complaint in this lawsuit. If your answer to this interrogatory is affirmative, state also:

(a) The date on which the statement(s) were taken;

(b) The names and addresses of the person(s) who took the statement(s);

(c) The names and addresses of any person(s) present when the statement(s) were taken;

(d) Whether the statement(s) were written, made by recording device or taken by court reporter or stenographer; and

(e) The names and addresses of any person(s) having custody or copies of the statement(s).

(13) Did you create, use, or maintain any ''electronic protected health information'' (hereinafter ''health information''), as defined in 45 C.F.R. § 160.103, during the treatment of the Plaintiff?

(14) If the answer to the previous interrogatory is in the affirmative, list the names and versions of any and all electronic ''information system(s)'' (hereinafter ''EMR system(s)''), as defined in 45 C.F.R. § 164.304, that contain or previously contained the health information of the Plaintiff.

(15) Indicate whether you were accredited by the Joint Commission (formerly Joint Commission on Accreditation of Healthcare Organizations [JCAHO]) during the time of the negligence alleged in the Complaint.

(16) With respect to the negligence alleged in the Complaint, state whether you had any manuals, directives, instructions, guidelines, and/or written or unwritten protocols related to specific allegations of negligence in the Complaint that were in effect at the office, hospital, or other medical facility where the defendant physician or health care provider practiced at the time of the negligence alleged in the Complaint concerning:

(a) Care, treatment, monitoring, evaluation, diagnosis, consultation or referral to others, at the time of the event(s) that is(are) the subject of this litigation;

(b) Training requirements and/or protocols for any physician or health care provider, including but not limited to medical staff, caring for, evaluating, diagnosing, consulting or referring patients either in the facility, department, or unit where the care, treatment, evaluation, diagnosis, consultation or referral to others at issue took place; and

(c) Reporting and/or investigation of adverse events at the facility, department, or unit where the care, treatment, evaluation, diagnosis, consultation or referral to others at issue took place.

COMMENT:

There is no corresponding request for production to Interrogatory #16, but documents may be pursued by way of supplemental discovery.

(17) Identify surveillance material discoverable under Practice Book Section 13-3 (c), by stating the name and address of any person who obtained or prepared any and all recordings, by film, photograph, videotape, audiotape or any other digital or electronic means, of any party concerning this lawsuit or its subject matter, including any transcript thereof which are in your possession or control or in the possession or control of your attorney, and state the date on which each such recordings were obtained and the person or persons of whom each such recording was made.

PLAINTIFF,

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.

_____

(Defendant)

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 that written consent for electronic delivery was received from all attorneys and self-represented parties of record who received or will be immediately be 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 was developed pursuant to and is to be used in connection with the changes to Section 13-6.

(NEW) Form 222

Plaintiff's Requests for Production

Medical Negligence—Health Care Provider

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

The Plaintiff(s) hereby request(s) that the Defendant _____ (Defendant Health Care Provider's Name) provide counsel for the Plaintiff(s) with copies of the documents described in the following requests for production, or afford counsel for said Plaintiff(s) the opportunity or, if necessary, sufficient written authorization, to inspect, copy, photograph or otherwise reproduce said documents. The production of such documents, copies or written authorizations shall take place at the offices of _____ on _____ (day), _____ (date) at _____ (time).

In answering these production requests, the Defendant(s) are required to provide all information within their possession, custody or control. If any production request cannot be answered in full, answer to the extent possible.

Definition: ''You'' and ''your'' shall mean the Defendant to whom these interrogatories are directed, except that if the Defendant has been sued as the representative of the estate of a decedent, ward, or incapable person, ''you'' shall also refer to the Defendant's decedent,

ward or incapable person unless the context of an interrogatory clearly indicates otherwise.

(1) All documents, (excluding privileged documents, such as attorney-client, work product, and peer review documents), that you know of, possess, or have power to obtain, concerning the Plaintiff's care, scheduling, appointments, treatment, evaluation, diagnosis, consultation or referral to others including but not limited to:

(a) All documents normally maintained as part of a patient's designated health record;

(b) Office management records including jackets, file covers, face sheets, transmittal documents for any requests for studies or consultations, and/or transportation records;

(c) Nursing notes;

(d) Hospital records;

(e) Laboratory records;

(f) Testing records;

(g) Radiology requisitions, reports, images/studies (lossless images), and audio recordings of radiology reviews;

(h) Notes, sticky notes or written markings;

(i) Pharmacy medication records;

(j) Automated medication dispensing system records;

(k) Any images/photographs taken during treatment or pathological examination;

(*l*) Pathology reports;

(m) Drafts and/or audio recordings of pathology reports;

(n) Quality improvement documents related to root cause analysis;

(o) Documents provided in connection with a peer review;

(p) Intradepartment transportation records;

(q) Laboratory test results;

(r) Documents and communications concerning the Plaintiff and the allegations in the Complaint; and

(s) Investigations or reports concerning the incident that is the subject of this lawsuit.

COMMENT:

Where privilege is claimed, counsel shall follow the relevant Practice Book rule(s). This request contemplates production of all medical records and documents, not limited to the treatment related to the allegations in the complaint, subject to plaintiff providing a HIPAA compliant authorization if necessary.

(2) Your current curriculum vitae.

(3) Each document identified in response to Interrogatory #18.

(4) A copy of the declaration page(s) of each insurance policy identified in response to Interrogatories #19 and #20.

(5) If the answer to Interrogatory #21 is in the affirmative, a copy of the complete policy contents of each insurance policy identified in response to Interrogatories #19 and #20.

(6) Each nonprivileged statement identified in response to Interrogatories #25 and #27.

(7) A copy of each and every recording of surveillance material discoverable under Practice Book Section 13-3 (c), by film, photograph,

videotape, audiotape or any other digital or electronic means, of any party to this lawsuit concerning this lawsuit or the subject matter thereof, including any transcript of such recording.

PLAINTIFF,

By _____

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 that written consent for electronic delivery was received from all attorneys and self-represented parties of record who received or will immediately be 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 was developed pursuant to and is to be used in connection with the changes to Section 13-9.

(NEW) Form 223

Plaintiff's Requests for Production

Medical Negligence—Hospital/Medical Group

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

The Plaintiff(s) hereby request(s) that the Defendant _____ (Defendant Hospital's Name) provide counsel for the Plaintiff(s) with copies of the documents described in the following requests for production, or afford counsel for said Plaintiff(s) the opportunity or, if necessary, sufficient written authorization, to inspect, copy, photograph or otherwise reproduce said documents. The production of such documents, copies or written authorizations shall take place at the offices of _____on _____ (day), _____ (date) at _____ (time).

In answering these production requests, the Defendant(s) are required to provide all information within their possession, custody or control. If any production request cannot be answered in full, answer to the extent possible.

Definition: ''You'' and ''your'' shall mean the Defendant, and its agents, servants, or employees to whom these requests for production are directed.

(1) All documents, (excluding privileged documents such as attorney-client, work product, and peer review documents), that you know of,

possess, or have power to obtain concerning the Plaintiff's care, scheduling, appointments, treatment, evaluation, diagnosis, consultation or referral to others, including but not limited to:

(a) All documents typically maintained as part of a patient's designated health record;

(b) Office management records including jackets, file covers, face sheets, transmittal documents for any requests for studies or consultations, and/or transportation records;

(c) Nursing notes;

(d) Hospital records;

(e) Laboratory records;

(f) Testing records;

(g) Radiology requisitions, reports, images/studies (lossless images), and audio recordings of radiology reviews;

(h) Notes, sticky notes or written markings;

(i) Pharmacy medication records;

(j) Automated medication dispensing system records;

(k) Any images/photographs taken during treatment or pathological examination;

(*l*) Pathology reports;

(m) Drafts and/or audio recordings of pathology reports;

(n) Quality improvement documents related to root cause analysis;

(o) Documents provided in connection with a peer review;

(p) Intradepartment transportation records;

(q) Laboratory test results;

(r) Documents and communications concerning the subject matter of the Complaint; and

(s) Investigations or reports concerning the Plaintiff and the allegations in the Complaint.

COMMENT:

Where privilege is claimed, counsel shall follow the relevant Practice Book rule(s). This request contemplates production of all medical records and documents, not limited to the treatment related to the allegations in the complaint, subject to plaintiff providing a HIPAA compliant authorization if necessary.

(2) Each document identified in response to Interrogatory #5.

(3) A copy of the declaration page(s) of each insurance policy identified in response to Interrogatories #6 and #7.

(4) If the answer to Interrogatory #8 is in the affirmative, a copy of the complete policy contents of each insurance policy identified in response to Interrogatories #6 and #7.

(5) Each non-privileged statement identified in response to Interrogatories #10 and #12.

(6) A copy of each and every recording of surveillance material discoverable under Practice Book Section 13-3 (c), by film, photograph, videotape, audiotape or any other digital or electronic means, of any party to this lawsuit concerning this lawsuit or the subject matter thereof, including any transcript of such recording.

PLAINTIFF,

By _____

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 that written consent for electronic delivery was received from all attorneys and self-represented parties of record who received or will immediately be 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 was developed pursuant to and is to be used in connection with the changes to Section 13-9.

PART II

CHAPTER AND SECTION HEADING OF THE RULES

SUPERIOR COURT—GENERAL PROVISIONS

CHAPTER 1
SCOPE OF RULES

CHAPTER 2
ATTORNEYS

CHAPTER 3
APPEARANCES

CHAPTER 7
CLERKS; FILES AND RECORDS

SUPERIOR COURT—PROCEDURE IN CIVIL MATTERS

CHAPTER 23
MISCELLANEOUS REMEDIES AND PROCEDURES

SUPERIOR COURT—PROCEDURE IN FAMILY MATTERS

CHAPTER 25
GENERAL PROVISIONS

SUPERIOR COURT—PROCEDURE IN FAMILY SUPPORT MAGISTRATE MATTERS

CHAPTER 25a
FAMILY SUPPORT MAGISTRATE MATTERS

SUPERIOR COURT—PROCEDURE IN JUVENILE MATTERS

CHAPTER 30
DETENTION

SUPERIOR COURT—PROCEDURE IN CRIMINAL MATTERS

CHAPTER 37
ARRAIGNMENT

CHAPTER 38
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CHAPTER 40
DISCOVERY AND DEPOSITIONS

CHAPTER 41
PRETRIAL MOTIONS

CHAPTER 42
TRIAL PROCEDURE

CHAPTER 43
SENTENCING, JUDGMENT AND APPEAL

CHAPTER 44
GENERAL PROVISIONS

Practice Book Rules Adopted, Amended or Suspended on an Interim Basis under Section 1-9B in Light of the Declared Public Health and Civil Preparedness Emergencies

Sec. E1-9C. —Adjustment or Suspension of Time or Location Requirement

The chief administrative judge of each division, in consultation with the appropriate Presiding Judge of each Judicial District, if possible, and subject to the approval of the chief court administrator, shall have the authority to adjust or suspend any time or location requirement in the Practice Book. Any such adjustment or suspension, as approved by the chief court administrator, shall be effective immediately upon the issuance of an order by said chief administrative judge; provided, however that (1) any such adjustment or suspension shall be reported to the Rules Committee of the Superior Court and (2) the Rules Committee may, on a prospective basis only, reject any such adjustment or suspension. Absent such rejection, any adjustment or suspension made hereunder shall be effective until further notice.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E1-24. Record of Off-Site Judicial Proceedings

Sec. 1-24 requires an on-the-record summary of off-site judicial proceedings ''by the next court day.'' Suspending this rule would allow flexibility for the court given limited resources.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E2-11A. Appeal from Decision of Bar Examining Committee concerning Conditions of Admission

Sec. 2-11A provides that an appeal of a decision of the Connecticut Bar Examining Committee be filed within thirty days of the decision. Given the suspension of statutes of limitation, it is consistent to suspend this requirement.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E2-27A. Minimum Continuing Legal Education

The requirements of this are suspended for calendar year 2020, and any credits earned by attorneys in 2020 shall be allowed to be carried over completely to 2021, even if the amount exceeds the two hour cap provided for in the rule.

(Adopted June 26, 2020, to take effect July 14, 2020, on an interim basis.)

Sec. E2-28B (c), (e). —Advisory Opinions

Sec. 2-28B (c) prescribes timelines by which the Statewide Grievance Committee must issue advisory opinions. Sec. 2-28B (e) states that the failure of the Committee to issue a timely opinion means that the Committee acquiesces that relevant advertisement or communication is compliant with the Rules. Current staffing levels require greater flexibility.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E2-32. Filing Complaints against Attorneys; Action; Time Limitation

Sec. 2-32 contains various deadlines, including deadlines that are akin to a statute of limitations. Sec. 2-32 (a) requires the statewide bar counsel to review and process complaints within seven days of receipt. Current staffing levels require greater flexibility.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E2-35. Action by Statewide Grievance Committee or Reviewing Committee

Sec. 2-35 contains various deadlines including a requirement that Disciplinary Counsel has fourteen days to respond to a request for review. Current staffing levels require greater flexibility.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E2-36. Action by Statewide Grievance Committee on Request for Review

Sec. 2-36 requires that the Statewide Grievance Committee must issue its decision on a request for review within sixty days. The current situation requires greater flexibility.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E2-38. Appeal from Decision of Statewide Grievance Committee or Reviewing Committee Imposing Sanctions or Conditions

Sec. 2-38 provides that an appeal of a grievance decision must be taken within thirty days. Given the suspension of statutes of limitation, it is consistent to suspend this requirement.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E2-39 (b). Reciprocal Discipline

Sec. 2-39 (b) sets forth time limits with regard to reciprocal discipline. The current situation requires greater flexibility.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E2-40 (f). Discipline of Attorneys Found Guilty of Serious Crimes in Connecticut

Sec. 2-40 (f) requires that a hearing on a presentment complaint shall be held within sixty days of the filing of the presentment. The current situation requires greater flexibility. Note that it is not recommended that Sec. 2-40 (d) be suspended. Sec. 2-40 (d) requires that ''any attorney found guilty of any crime shall send written notice of the

finding of guilt to the disciplinary counsel and the State-wide Grievance Committee, by certified mail, return receipt requested, or with electronic delivery confirmation, within ten days of the date of the finding of guilt.''

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E2-41 (f). Discipline of Attorneys Found Guilty of Serious Crimes in Another Jurisdiction

Sec. 2-41 (f) requires that a hearing on a presentment complaint shall be held within sixty days of the filing of the presentment. The current situation requires greater flexibility. Note that it is not recommended that Sec. 2-41 (d) be suspended. Sec. 2-41 (d) requires that ''[a]ny attorney found guilty of any crime in another jurisdiction shall send written notice of the finding of guilt to the disciplinary counsel and the Statewide Grievance Committee, by certified mail, return receipt requested, or with electronic delivery confirmation, within ten days of the date of the finding of guilt.''

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E2-47 (a). Presentments and Unauthorized Practice of Law Petitions

Sec. 2-47 (a) requires that a hearing on the merits of the complaint shall be held within sixty days of the date a complaint was filed with the court. The current situation requires greater flexibility.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E2-53 (h),(j). Reinstatement after Suspension, Disbarment or Resignation

Sec. 2-53 (h) requires that the Statewide Grievance Committee and the Office of the Chief Disciplinary Counsel file a report with the standing committee within sixty days of referral from the chief justice. Sec. 2-53 (j) requires that the standing committee shall complete its work within 180 days of the referral. The current situation requires greater flexibility.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E2-70 (a). —Client Security Fund Fee

Sec. 2-70 (a) requires the collection of the Client Security Fund Fee. Suspension of the rule would allow for flexibility in assessing the fee.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E2-71 (b) (3). —Eligible Claims

Sec. 2-71 (b) (3) requires that claims for reimbursement be filed within four years. Given the suspension of statutes of limitation, it is consistent to suspend this requirement.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E2-75 (a). —Processing Claims

Sec. 2-75 (a) sets forth timelines by which the client security fund committee and attorney must take certain actions. The current situation requires greater flexibility.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E2-79 (a). —Enforcement of Payment of Fee

Sec. 2-79 (a) sets out the timeframe for administrative suspensions. The current situation requires greater flexibility.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E3-22. Certified Law School Graduates

(a) On a temporary and emergency basis, Sections 3-14 through 3-21 are expanded for 2019 and 2020 law school graduates who have not previously taken an administration of any bar examination before February 2020 and who have graduated from a law school approved by the American Bar Association or by the Committee (''Certified Law School Graduates'').

(b) The supervising attorney for a Certified Law School Graduate must be in good standing and have no history of professional discipline, including administrative suspension.

(c) For civil cases, the supervising attorney is not required to be present in court with the Certified Law School Graduate: (1) for short calendar call and argument; (2) to report and seek ratification by the Court of a written agreement; (3) to conduct an unopposed foreclosure proceeding seeking judgment; (4) to participate in a pre-trial conference or status conference; (5) to participate in an uncontested dissolution of marriage proceeding; or (6) to participate in the housing court mediation program; so long as the person or entity on whose behalf the appearance is being made consents to the absence of the supervising attorney. However, the supervising attorney must be present during trial.

(d) For all criminal cases, the supervising attorney must be present in court with the Certified Law School Graduate.

(e) For oral argument before the Connecticut Appellate or Supreme Court, the supervising attorney must be present in court with the Certified Law School Graduate.

(f) A Certified Law School Graduate may, under the general supervision of the supervising attorney but outside of his or her presence, give legal advice to a client, negotiate on behalf of a client, and prepare contracts and other documents for the client, provided that the graduate obtains the supervising attorney's approval of any legal advice, negotiation plan, or final document.

(g) The certification for each Certified Law School Graduate shall remain in effect until November 15, 2021, unless terminated at an earlier date by the Dean or Superior Court in accordance with Section 3-18.

(h) In all other respects, Sections 3-14 through 3-21 remain unchanged, and legal interns may continue to appear and/or practice to the extent permitted under the existing rules.

(Adopted June 26, 2020, to take effect retroactively May 11, 2020, on an interim basis, but until no later than November 15, 2021.)

Sec. E7-13. —Criminal/Motor Vehicle Files and Records

Sec. 7-13 addresses the destruction of files and mandates the destruction of certain criminal files. The timelines for such destruction may not be appropriate given the current situation.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E7-17. Clerks' Offices

Sec. 7-17 provides that each clerk's office shall be open at least five days per week, except during weeks with a legal holiday. The current situation requires that the chief court administrator have greater flexibility to operate the clerks' offices and courthouses.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E23-68. 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, counsel, witness, or other participant in **[**a**]** any proceeding may appear by means of an interactive audiovisual device at any proceeding scheduled to be heard in-person 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**]** At the discretion of the judicial authority, any party, counsel, witness or other participant in a proceeding may be required to appear by means of an interactive audiovisual device in any **[**civil or family matter**]** 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.

(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 can see and communicate with each other simultaneously. 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) An officer, as identified in General Statutes § 1-24, may administer an oath by means of an interactive audiovisual device to any party, witness or other participant in a proceeding who appears pursuant to this section, provided such officer can see, hear and clearly identify the participant to whom the oath is to be administered via the audiovisual device.

[(e)**]** (f) 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, counsel, witness, or other participant in the proceeding appear in person.

(g) Nothing contained in this section shall be construed to preclude the Judicial Branch, at the discretion of the chief court administrator, from handling any matter remotely.

[(f)**]** (h) 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*.

(Adopted June 26, 2020, to take effect July 14, 2020, on an interim basis.)

Sec. E25-3. Action for Custody of Minor Child

This rule requires hearings on new custody applications to be held no more than thirty days from filing. We are continuing, and should

continue, to accept new filings and the clerks must set dates for hearings and for service of the papers on the opposing party, but under current circumstances it is not feasible to set a hearing date within the thirty-day time limit.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E25-4. Action for Visitation of Minor Child

This rule requires hearings on new visitation applications to be held no more than thirty days from filing. We have the same concern as for custody applications described above.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E25-17. —Date for Hearing

This rule requires that a motion to strike in a family case be placed on a short calendar within fifteen days. Such motions in family cases are very rare, but if one were to be filed, the court likely would be unable to meet the time requirement.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

TECHNICAL CHANGE: The word ‘‘cases’’ was added after the second instance of the word ‘‘family.’’

Sec. E25-59A. Sealing Files or Limiting Disclosure of Documents in Family Matters

This rule, in subsection (f) (1), requires that a motion to seal a file in a family case be placed on a short calendar within fifteen days, which likely would not be possible.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E25a-2. Prompt Filing of Appearance

This section requires appearances in Title IV-D child support matters (which could include appearances by Support Enforcement Services), to be filed ''promptly,'' which may not be possible.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E25a-3. Withdrawal of Appearance; Duration of Appearance

This section establishes automatic time periods for the withdrawal of appearances which may not be feasible and may result in the premature elimination of attorney appearances.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E25a-14. —Continuances when Counsel's Presence or Oral Argument Required

This section only allows for continuances from certain short calendar matters for good cause shown, unless the parties agree or the court orders otherwise.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E25a-15. Statements To Be Filed

This rule imposes on parties and counsel the obligation to file certain documents before a hearing. It may not be necessary to address this as it involves time periods binding on the parties, not the court, and would likely be deemed moot if the hearing did not go forward due to limited court operations.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E25a-17. Motion To Open Judgment of Paternity by Acknowledgment

This rule requires hearings on motions to open acknowledgments of paternity to be held no more than thirty days from filing. Under current circumstances, it is not feasible to set a hearing date within the thirty-day time limit.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E25a-19. Standard Disclosure and Production

This rule imposes on parties and counsel the obligation to exchange certain documents by way of discovery within thirty days of a request or order. It involves time periods binding on the parties, not the court.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E25a-23. Answers to Interrogatories

This rule imposes on parties and counsel the obligation to respond to interrogatories within sixty days. It also involves time periods binding on the parties, not the court, although a request for extension of time may be filed with the court.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E30-7. Place of Detention Hearings

Pursuant to the Branch's consolidation of courts, only two of the eleven juvenile courthouses remain open. Priority 1 delinquency cases are being heard only in the Hartford and Bridgeport juvenile courthouses.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E37-1. Arraignment; Timing

The request is being made to allow flexibility in the timing of the presentment of a defendant before a court. In the event that arraignment procedures needed to be modified to a more restricted schedule, the suspension of the rule would permit the arraignments to be conducted in a manner consistent with the court's ability to operate.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E37-12. Defendant in Custody; Determination of Probable Cause

The courts have continued to maintain probable cause findings, specifically as it relates to weekend arrests. In the event that it is not possible to have this finding within forty-eight hours, the suspension of the rule would permit the court to make the probable cause determination at the soonest date available under the circumstances. The suspension would also address the sealing requirement so as not to require a party to respond within seven days for recommendations as to the court order and also allows the court to continue its sealing order beyond fourteen days. This suspension of the rule would allow for appropriate notice and a full hearing to take place on the merits of any sealing order.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E38-6. Appearance after Release

The suspension of the rule only applies to a defendant who is not in custody. Currently, the courts are receiving all domestic arraignments on the next court date. All domestic arraignments have protective orders issued by law enforcement which remain in effect until the defendant is seen before the court. In the event that it is not possible to conduct an arraignment on the next court date, the suspension of the rule would allow for the court to schedule the first presentment on a different, but still expedited date. In cases where the defendant is not in custody and it is not a domestic arraignment, the suspension of the rule requiring an initial appearance of not more than fourteen days allows the courts to maintain appropriately sized dockets and provides notice to all parties as to the scheduling of the cases.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E38-18. —Review of Detention Prior to Arraignment, Trial or Sentencing

The rule requires the review of any detained person's bail within forty-five days and within thirty days if the person is held on a misdemeanor or class D felony. The suspension of the rule would remove mandatory bail reviews within these time restraints. A court could still

conduct bail reviews by way of motion or through a videoconference at an appropriately scheduled date.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E38-21. —Forfeiture of Bail and Rearrest Warrant

The rule requires any person whose bond has been forfeited to be returned to custody within six months in order to release a surety from their bond obligation. The suspension of the rule would allow the surety additional time to locate the person and is consistent with the court focusing on designated priority cases.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E40-11. Disclosure by the Prosecuting Authority

The rule requires the prosecution to disclose certain materials within forty-five days from the filing of a request to disclose. By suspending the rule, it would allow the court to permit an extension of this time period without requiring each case to have a finding of good cause shown for the delay.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E40-13. Names of Witnesses; Prior Record of Witnesses; Statements of Witnesses

The rule requires the prosecution to disclose the names of witnesses, the records of witnesses and the statements of witnesses within forty-five days from the filing of a request to produce these materials. By suspending the rule, it would allow the court to permit an extension of this time period without requiring each case to have a finding of good cause shown for the delay.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E40-13A. Law Enforcement Reports, Affidavits and Statements

The rule requires the prosecution to disclose certain materials within forty-five days from the filing of a request to disclose. By suspending the rule, it would allow the court to permit an extension of this time period without requiring each case to have a finding of good cause shown for the delay.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E40-17. Defense of Mental Disease or Defect or Extreme Emotional Disturbance; Notice by Defendant

The rule requires the defendant, when relying on one of the above-captioned affirmative defenses, to notice the prosecution within forty-five days of the intention to use said defense. By suspending the rule,

it would allow the court to permit an extension of this time period without requiring each case to have a finding of good cause shown for the delay.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E40-18. —Notice by Defendant of Intention To Use Expert Testimony regarding Mental State; Filing Reports of Exam

The rule requires the defendant to notice the prosecution within forty-five days of the intention to use an expert witness and to produce the report of the expert within five days of receipt. By suspending the rule, it would allow the court to permit an extension of this time period without requiring each case to have a finding of good cause shown for the delay.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E40-21. Defense of Alibi; Notice by Defendant

The rule requires the defendant to notice the prosecution within twenty days after written demand of the intention to use said defense. By suspending the rule, it would allow the court to permit an extension of this time period without requiring each case to have the court direct the time period in which the defense needs to comply with the notice.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E40-22. —Notice by Prosecuting Authority concerning Alibi Defense

The rule requires the prosecution to notice the defense within twenty days, but no less than ten days before trial, the use of witnesses to rebut an alibi defense. By suspending the rule, it would allow the court to permit an extension of this time period without requiring each case to have the court direct the time period in which the prosecution needs to comply with the notice.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E40-26. Disclosure by the Defendant; Information and Materials Discoverable by the Prosecuting Authority as of Right

The rule requires the prosecution to disclose certain materials within forty-five days from the filing of a request to disclose. By suspending the rule, it would allow the court to permit an extension of this time period without requiring each case to have a finding of good cause shown for the delay.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E41-5. —Time for Making Pretrial Motions or Requests

The rule requires the filing of pretrial motions not later than ten days after the first pretrial conference. By suspending the rule, the court

will not be required to grant permission for an extension of time due to the current circumstances.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E42-49A. Sealing or Limiting Disclosure of Documents in Criminal Cases

The rule pertains to any motion sealing or limiting order on criminal documents which must be held not less than fifteen days following the filing of the motion and must notice the public as to the date, time and place of the hearing. By suspending the rule, it would allow the court to provide appropriate notice and to schedule a full hearing to take place on the merits of any sealing order.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E42-52. —Time for Filing Motion for Judgment of Acquittal

The rule pertains to requiring the motion to be filed within five days after a mistrial or verdict. By suspending the rule for those cases affected by the current situation, the court would be allowed to extend the timing as it deems appropriate.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E42-54. —Time for Filing Motion for New Trial

The rule pertains to requiring the motion to be filed within five days after a verdict. By suspending the rule for those cases affected by the current situation, the court would be allowed to extend the timing as it deems appropriate.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E43-24. —Time for Filing Application for Sentence Review

By suspending the rule, it would dispense with the thirty day time requirement for filing an application for sentence review. Because of the limited courthouse access, some filings may not be able to be processed within the time frame allowed.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E43-33. Appointment of Initial Counsel for Appeal by Indigent Defendant

The rule requires the application to be heard within twenty days. By suspending the rule, it will allow the courts to maintain appropriately sized dockets and not require a finding of good cause shown under the circumstances.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E43-39. Speedy Trial; Time Limitations

The suspension of the rule would allow the court flexibility in scheduling a trial, in the event that trials are restricted. The suspension would still allow courts the ability to schedule trials as expeditiously as possible.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E44-10A. —Where Presence of Defendant May Be by Means of an Interactive Audiovisual Device

(a) Unless otherwise ordered by the judicial authority, and in the discretion of the judicial authority, a defendant may be present by means of an interactive audiovisual device for the following proceedings:

(1) Hearings concerning indigency pursuant to General Statutes § 52-259b;

(2) Hearings concerning asset forfeiture, unless the testimony of witnesses is required;

(3) Hearings regarding seized property, unless the testimony of witnesses is required;

(4) With the defendant's consent, bail modification hearings pursuant to Section 38-14;

(5) Sentence review hearings pursuant to General Statutes § 51-195;

(6) Proceedings under General Statutes § 54-56d (k) if the evaluation under General Statutes § 54-56d (j) concludes that the defendant

is not competent but is restorable and neither the state nor the defendant intends to contest that conclusion;

(7) Arraignments, provided that counsel for the defendant has been given the opportunity to meet with the defendant prior to the arraignment;

(8) A disposition conference held in the judicial district court pursuant to the provisions of Sections 39-11 through 39-17 when it is not reasonably anticipated that an offer for the final disposition of the case will be accepted or rejected upon the conclusion of the conference;

(9) With the consent of counsel a disposition conference held in the geographical area court pursuant to the provisions of Sections 39-11 through 39-17 when it is not reasonably anticipated that an offer for the final disposition of the case will be accepted or rejected upon the conclusion of the conference;

(10) The first scheduled court appearance of the defendant in the judicial district court following the transfer of the case from the geographical area court;

(11) Hearings regarding motions to correct an illegal sentence; and

(12) Hearings regarding motions for sentence modification.

(b) Such audiovisual device must operate so that the defendant, his or her attorney, if any, and the judicial authority can see and communicate with each other simultaneously. In addition, a procedure by which the defendant and his or her attorney can confer in private must be provided.

(c) Unless otherwise required by law or 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.

(d) Nothing contained in this section shall be construed to establish a right for any person to appear by means of an interactive audiovisual device.

(e) Nothing contained in this section shall be construed to preclude the Judicial Branch, at the discretion of the chief court administrator, from handling any matter remotely.

(Adopted June 26, 2020, to take effect July 14, 2020, on an interim basis.)

Sec. E44-13. —Scheduling of Proceedings before Trial; Continuances

The rule requires that a continuance shall not exceed two weeks. The suspension of the rule would give the courts the flexibility necessary to maintain appropriately sized dockets and attend to those matters designated as priority cases.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E44-14. —Assignments for Plea in Judicial District Court Location

The rule requires that the assignment to a Judicial District shall not exceed two weeks. The suspension of the rule would give the courts

the flexibility necessary to maintain appropriately sized dockets and attend to those matters designated as priority cases.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E44-27. —Hearing of Infractions, Violations to Which Not Guilty Plea Filed

The rule requires that within ten days of filing a not guilty plea, the clerk shall schedule a hearing in the matter. By allowing the suspension of the rule, it will allow the courts to delay scheduling of infractions so that they may focus on those matters designated as priority cases.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

Sec. E44-30. —Hearing by Magistrates of Infractions and Certain Motor Vehicle Violations

Suspension of the rule will dispense with the five day time requirement imposed on the defendant to file a trial de novo during this time period.

(Adopted June 26, 2020, to take effect retroactively March 24, 2020, on an interim basis, but until no later than the duration of the declared emergencies.)

RULES OF APPELLATE PROCEDURE

NOTICE

Notice is hereby given that the following amendments to the Rules of Appellate Procedure were adopted to take effect January 1, 2022, except the amendments to Sections 63-4, 63-8, 66-6, 77-1 and Chapters 67 and 68, which were adopted to take effect October 1, 2021, and the amendment to Section 63-10, which was adopted on an interim basis, effective January 26, 2021. The amendments were approved by the Supreme Court on June 15, 2021, and by the Appellate Court on June 16, 2021. With respect to 63-10, the courts have waived the provision of Section 86-1 requiring publication of rules sixty days prior to their effective date.

Attest:

Carl D. Cicchetti
Chief Clerk Appellate

INTRODUCTION

Contained herein are amendments to the Rules of Appellate Procedure. These amendments are indicated by brackets for deletions and underlined text for added language. The designation ‘‘NEW’’ is printed with the title of each new rule. This material should be used as a supplement to the Connecticut Practice Book until the 2022 edition of the Practice Book becomes available.

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CHAPTER 61

REMEDY BY APPEAL

Sec. 61-7. Joint and Consolidated Appeals

(a) (1) Two or more plaintiffs or defendants in the same case may appeal jointly or severally. Separate cases heard together and involving at least one common party may as of right be appealed jointly, provided all the trial court docket numbers are shown on the appeal form (JD-SC-033).

(2) Prior to the filing of an appeal, the trial court, on motion of any party or on its own motion, may order that a joint appeal be filed in any situation not covered by the preceding paragraph.

(3) In the case of a joint appeal, only one entry fee is required. The appellant filing the appeal shall pay the entry fee. When additional appellants are represented by other counsel or are self-represented, a single joint appeal consent form (JD-SC-035) signed by all joint appellants shall be filed on the same business day the appeal is filed.

(b) (1) The Supreme Court, on motion of any party or on its own motion, may order that appeals pending in the Supreme Court be consolidated.

(2) When an appeal pending in the Supreme Court involves the same cause of action, transaction or occurrence as an appeal pending in the Appellate Court, the Supreme Court may, on motion of any party or on its own motion, order that the appeals be consolidated in the Supreme Court. The court may order consolidation at any time before the assignment of the appeals for hearing.

(3) The Appellate Court, on motion of any party or on its own motion, may order that appeals pending in the Appellate Court be consolidated.

(4) There shall be no refund of fees if appeals are consolidated.

(c) Whenever appeals are jointly filed or are consolidated, all appellants shall file a single, consolidated brief and appendix, and a single, consolidated reply brief, if any. All appellees shall file a single, consolidated brief or, if applicable, a single, consolidated brief and appendix. If the parties cannot agree upon the contents of the brief, reply brief or [and] appendix, or if the issues to be briefed are not common to the joint parties, any party may file a motion for permission to file a separate brief, reply brief or [and] appendix.

COMMENTARY: The purpose of these amendments is to clarify that whenever appeals are jointly filed or are consolidated, appellants shall file a single, consolidated reply brief, if any. In addition, the amendments provide that any party may file a motion for permission to file a separate reply brief under certain circumstances.

Sec. 61-14. Review of Order concerning Stay; When Stay May Be Requested from Court Having Appellate Jurisdiction

The sole remedy of any party desiring the court to review an order concerning a stay of execution shall be by motion for review under Section 66-6. Execution of an order of the court terminating a stay of execution shall be stayed for ten days from the issuance of notice of the order, and if a motion for review is filed within that period, the order shall be stayed pending decision of the motion, unless the court having appellate jurisdiction rules otherwise. Any stay of proceedings that was in effect during the pendency of the motion for review shall

continue, unless the court having appellate jurisdiction rules otherwise, until the time for filing a motion for reconsideration under Section 71-5 has expired. If such a timely motion for reconsideration is filed, any stay that was in effect shall continue until its disposition and, if it is granted, until the matter is finally determined.

A motion for extension of time to file a motion for review of a ruling concerning a stay of execution must be filed in the trial court but shall not automatically stay the execution after the ten days has expired, except that the trial judge may order a stay pending a ruling on the motion for extension of time.

A ruling concerning a stay is a judgment in a trial to the court for purposes of Section 64-1, and the trial court making such a ruling shall state its decision, either orally or in writing, in accordance with the requirements of that section.

In any case in which there is no automatic stay of execution and in which the trial court denies, or refuses to rule on, a motion for stay, an aggrieved party may file a motion requesting a stay of execution of the judgment from the court having appellate jurisdiction pending the filing of and ruling upon a motion for review. The motion must be filed with the appellate clerk.

COMMENTARY: The intent of this amendment is to codify the holding in *Wachovia Mortgage, FSB* v. *Toczek*, 189 Conn. App. 812, 820 n.5 (2019), that the language in Section 71-6 concerning the continuation of a stay until the time for reconsideration has passed necessarily applies to stays under this section, as Section 71-6 applies to any stay of proceedings.

CHAPTER 62

CHIEF JUDGE, APPELLATE CLERK AND DOCKET: GENERAL ADMINISTRATIVE MATTERS

Sec. 62-7. Matters of Form; Filings; Delivery and Certification to Counsel of Record

(a) It is the responsibility of counsel of record to file papers in a timely manner and in the proper form. The appellate clerk may return any papers filed in a form not in compliance with these rules; in returning, the appellate clerk shall indicate how the papers have failed to comply. The clerk shall note the date on which they were received before returning them, and shall retain an electronic copy thereof. Any papers correcting a timely, noncomplying filing shall be deemed to be timely filed if a complying document is refiled with the appellate clerk within fifteen days of the official notice date, which is the notice date indicated on the return form. The official notice date is not the date the return form is received. Subsequent returns for the same filing will not initiate a new fifteen day refiling period. The time for responding to any such paper shall not start to run until [the correcting] a complying paper is filed.

(b) All papers except the transcript and regulations filed pursuant to Section 81-6 shall contain: (1) certification that a copy has been delivered to each other counsel of record, except as provided in Section 63-4 (a) (3), which certification shall include names, addresses, e-mail addresses, and telephone numbers; (2) certification that the document has been redacted or does not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute,

court order or case law; and (3) certification that the document complies with all applicable Rules of Appellate Procedure.

Electronic papers shall contain a certification as set forth in subsection (b) (1), but filers can comply with the certification requirements set forth in subsections (b) (2) and (b) (3) during the electronic filing process. Any request to deviate from the requirement regarding personal identifying information shall be filed with the appellate clerk pursuant to Section 67-2 (k). Briefs and appendices require additional certifications pursuant to Section 67-2 (g) and (i). Other certifications may be required by the rules under which specific documents are filed.

(c) Any counsel of record who files a document electronically with the court must deliver it electronically to all other counsel of record, except as provided in Section 63-4 (a) (3), unless the intended recipient has notified the appellate clerk and all other counsel of record in writing that the recipient declines to accept electronic delivery of documents or the intended recipient is exempt from the requirements of electronic filing pursuant to Section 60-8. Any counsel of record who has signed an electronically filed document shall be deemed to have consented to electronic delivery under this section. Delivery by e-mail is complete upon sending the electronic notice unless the party sending notice learns that the attempted delivery did not reach the e-mail address of the intended recipient.

If the intended recipient has declined to accept electronic delivery or is exempt from the requirements of electronic filing, a document may be delivered to counsel of record by hand or by first class or express mail delivered by the United States Postal Service or an

equivalent commercial service, postage prepaid, to the last known address of the intended recipient.

COMMENTARY: The purpose of these amendments is to codify the policy of the Supreme and Appellate Courts that a timely filed document returned by the appellate clerk is deemed timely if corrected within fifteen days of the official notice date, and that a party is not entitled to successive fifteen day periods to file a complying document.

Sec. 62-8A. Attorneys of Other Jurisdictions Participating Pro Hac Vice on Appeal

(a) An attorney, who upon written application pursuant to Section 2-16 has been permitted by a judge of the Superior Court to participate in the presentation of a cause or appeal pending in this state, shall be allowed to participate in any appeal of said cause without filing a written application to the court having jurisdiction over the appeal and without paying the filing fee. All terms, conditions and obligations set forth in Section 2-16 shall remain in full effect. The chief clerk of the Superior Court for the judicial district in which the cause originated shall continue to serve as the agent upon whom process and notice of service may be served.

(b) Any attorney who is in good standing at the bar of another state and who has not appeared pro hac vice in the Superior Court to participate in the cause now pending on appeal, may for good cause shown, upon written application, on form JD-CL-141, Application for Permission for Attorney to Appear Pro Hac Vice in a Court Case, presented by a member of the bar of this state, be permitted in the

discretion of the court having jurisdiction over the appeal to participate in the presentation of the appeal, provided, however, that:

(1) such application shall be accompanied by an affidavit on form JD-CL-143, Affidavit of Attorney Seeking Permission to Appear Pro Hac Vice

(A) **[**stating whether an application was filed pursuant to Section 2-16 in the Superior Court and, if so, the disposition of said application**]** providing the full legal name of the applicant with contact information, including firm name, business mailing address, telephone number and e-mail address, as applicable;

(B) certifying whether such applicant has a grievance pending against him or her in any other jurisdiction, has ever been reprimanded, suspended, placed on inactive status, disbarred or otherwise disciplined, or has resigned from the practice of law and, if so, setting forth the circumstances concerning such action;

(C) certifying that the applicant has paid the client security fund fee due for the calendar year in which the application is made;

(D) designating the chief clerk of the Superior Court for the judicial district in which the cause originated as his or her agent upon whom process and notice of service may be served;

(E) certifying that the applicant agrees to register with the Statewide Grievance Committee in accordance with the provisions of chapter 2 of the rules of practice while appearing in the appeal and for two years after the completion of the matter in which the attorney appeared and to notify the Statewide Grievance Committee of the expiration of the two year period;

(F) identifying the number of **[**attorneys in his or her firm who are appearing pro hac vice in the cause now on appeal or who have filed or intend to file an application to appear pro hac vice in this appeal; and**]** cases in which the attorney has appeared pro hac vice in any court of this state since the attorney first appeared pro hac vice in this state as well as any previously assigned juris number;

(G) **[**identifying the number of cases in which the attorney has appeared pro hac vice in any court of this state since the attorney first appeared pro hac vice in this state; and provided**]** stating the number of applications previously filed in the Superior Court pursuant to Section 2-16 and whether any of those applications were denied and the reason for that denial;

(H) identifying the number of attorneys in his or her firm who are appearing pro hac vice in the cause now on appeal or who have filed or intend to file an application to appear pro hac vice in this appeal; and

(2) The filing fee shall be paid with the court for the application submitted pursuant to General Statutes § 52-259 (i); and

(**[**2**]** 3) a member of the bar of this state must be present at all proceedings and arguments and must sign all motions, briefs and other papers filed with the court having jurisdiction over the appeal and assume full responsibility for them and for the conduct of the appeal and of the attorney to whom such privilege is accorded. Good cause for according such privilege may include a showing that by reason of a long-standing attorney-client relationship, predating the cause of action or subject matter of the appeal, the attorney has acquired a specialized skill or knowledge with respect to issues on

appeal or to the client's affairs that are important to the appeal, or that the litigant is unable to secure the services of Connecticut counsel. Upon the granting of an application to appear pro hac vice, the clerk of the court in which the application is granted shall immediately notify the Statewide Grievance Committee of such action.

(c) No application to appear pro hac vice shall be permitted after the due date of the final reply brief as set forth in Section 67-3 without leave of the court.

COMMENTARY: These amendments update this section to correspond to new forms regarding applications to appear pro hac vice, for consistent use in both the Superior Court and the Supreme and Appellate Courts.

CHAPTER 63

FILING THE APPEAL; WITHDRAWALS

Sec. 63-4. Additional Papers To Be Filed by Appellant and Appellee Subsequent to the Filing of the Appeal

(a) Within ten days of filing an appeal, the appellant shall also file with the appellate clerk the following:

(1) A preliminary statement of the issues intended for presentation on appeal. If any appellee wishes to: (A) present for review alternative grounds upon which the judgment may be affirmed; (B) present for review adverse rulings or decisions of the court which should be considered on appeal in the event the appellant is awarded a new trial; or (C) claim that a new trial rather than a directed judgment should be ordered if the appellant is successful on the appeal, that appellee shall

file a preliminary statement of issues within twenty days from the filing of the appellant's preliminary statement of the issues.

Whenever the failure to identify an issue in a preliminary statement of issues prejudices an opposing party, the court may refuse to consider such issue.

(2) A designation of the proposed contents of the clerk appendix that is to be prepared by the appellate clerk under Section 68-2A listing the specific documents docketed in the case file that the appellant deems are necessary to include in the clerk appendix for purposes of presenting the issues on appeal, including their dates of filing in the proceedings below, and, if applicable, their number as listed on the docket sheet. The appellant shall limit the designation to the documents referenced in Section 68-3A for inclusion in the clerk appendix. If any other party disagrees with the inclusion of any documents designated by the appellant, or deems it necessary to include other documents docketed in the case file in the clerk appendix, that party may, within seven days from the filing of the appellant's designation of the proposed contents of the clerk appendix, file its own designation of the proposed contents of the clerk appendix.

([2] 3) A certificate stating that no transcript is deemed necessary[,] or a [copy of the] transcript order [acknowledgment form (JD-ES-038) with section I thereof completed, filed with an] confirmation from the official court reporter pursuant to Section 63-8. If [any other party deems any other parts of the transcript necessary, that party shall, within twenty days from the filing of the appellant's transcript papers, file a copy of the order form (JD-ES-038), which that party has placed in

compliance with Section 63-8**]** the appellant is to rely on any transcript delivered prior to the filing of the appeal, the transcript order confirmation shall indicate that an electronic version of a previously delivered transcript has been ordered.

[If the appellant is to rely on transcript delivered prior to the taking of the appeal, an order form (JD-ES-038) shall be filed stating that an electronic version of a previously delivered transcript has been ordered. The detailed statement of the transcript to be relied on required by Section 63-8 also must be filed. If any other party deems any other parts of the transcript necessary, and those parts have not been delivered at the time of the taking of the appeal, that party shall have twenty days to order those additional parts.**]** If any other party deems any other parts of the transcript necessary that were not ordered by the appellant, that party shall, within twenty days of the filing of the appellant's transcript papers, file a transcript order confirmation for an order placed in compliance with Section 63-8. If **[**any other party is to rely on**]** the order is for any transcript delivered prior to the **[**taking**]** filing of the appeal, **[**an order form (JD-ES-038)**]** the transcript order confirmation shall **[**be filed within twenty days, stating**]** indicate that an electronic version of a previously delivered transcript has been ordered.

(**[**3**]** 4) A docketing statement containing the following information to the extent known or reasonably ascertainable by the appellant: (A) the names and addresses of all parties to the appeal, the names, addresses, and e-mail addresses of trial and appellate counsel of record, and the names and addresses of all persons having a legal

interest in the cause on appeal sufficient to raise a substantial question whether a judge should be disqualified from participating in the decision on the case by virtue of that judge's personal or financial interest in any such persons; (B) the case names and docket numbers of all pending appeals to the Supreme Court or Appellate Court which arise from substantially the same controversy as the cause on appeal, or involve issues closely related to those presented by the appeal; (C) whether a criminal protective order, civil protective order, or civil restraining order was requested or issued during any of the underlying proceedings; (D) whether there were exhibits in the trial court and, if so, whether the exhibits were physical, electronic or a combination thereof; and (E) in criminal and habeas cases, the defendant's or petitioner's conviction(s) and sentence(s) that are the subject of the direct criminal or habeas appeal and whether the defendant or petitioner is incarcerated. If additional information is or becomes known to, or is reasonably ascertainable by the appellee, the appellee shall file a docketing statement supplementing the information required to be provided by the appellant.

When an appellant or an appellee is aware that one or more appellees have no interest in participating in the appeal, the appellant and any other appellees may be relieved of the requirement of certifying copies of filings to those appellees by designating the nonparticipating appellee(s) in a section of the docketing statement named ''Nonparticipating Appellee(s).'' This designation shall indicate that if no docketing statement in disagreement is filed, subsequent filings will not be certified to those appellees.

If an appellee disagrees with the nonparticipating designation, that appellee shall file a docketing statement indicating such disagreement within twenty days of the filing of that designation. All documents filed on or before the expiration of the time for an appellee to file a docketing statement in disagreement as stated above shall be delivered pursuant to Section 62-7 (b) to all counsel of record. If no docketing statement in disagreement is filed, subsequent filings need not be certified to nonparticipating appellees.

(**[**4**]** 5) In all noncriminal matters, except for matters exempt from a preargument conference pursuant to Section 63-10, a preargument conference statement.

(**[**5**]** 6) A constitutionality notice, in all noncriminal cases where the constitutionality of a statute has been challenged. Said notice shall identify the statute, the name and address of the party challenging it, and whether the statute's constitutionality was upheld by the trial court. The appellate clerk shall deliver a copy of such notice to the attorney general. This section does not apply to habeas corpus matters based on criminal convictions, or to any case in which the attorney general is a party, has appeared on behalf of a party, or has filed an amicus brief in proceedings prior to the appeal.

(**[**6**]** 7) In matters in which documents are under seal, conditionally or otherwise, or limited as to disclosure, a notice identifying the time, date, scope and duration of the sealing order with a copy of the order. (See Section 77-2.)

(b) Except as otherwise provided, a party may as of right file amendments to the preliminary statement of issues at any time until that

party's brief is filed. Amendments to the docketing statement may be filed at any time. Amendments to the transcript statement may be made only with leave of the court. If leave to file such an amendment is granted, the adverse party shall have the right to move for permission to file a supplemental brief and for an extension of time. Amendments to the preargument conference statement shall not be presented in writing but may be presented orally at the preargument conference, if one is held.

(c) Failure to comply with this rule shall be deemed as sufficient reason to schedule a case for sanctions under Section 85-3 or for dismissal under Section 85-1.

COMMENTARY: The purpose of these amendments is to conform this section to the new process for the electronic ordering of transcripts, consistent with the recent changes adopted by the Superior Court. The amendments also require the docketing statement to indicate whether exhibits in the trial court were physical, electronic or a combination thereof. Further, the amendments add a new subdivision requiring the appellant or other party to designate the proposed contents of the clerk appendix that is to be prepared by the appellate clerk pursuant to Section 68-2A.

Sec. 63-8. Ordering and Filing of Paper Transcripts

(a) **[**On or before the date of the filing of the Section 63-4 papers**]** Prior to the deadline for compliance with Section 63-4 (a) (2), the appellant shall, subject to Section 63-6 or 63-7 if applicable, order**[**, using form JD-ES-038,**]** from an official court reporter a transcript of the parts of the proceedings not already on file which the appellant

deems necessary for the proper presentation of the appeal. Such order shall specify the case name, docket number, judge's name(s), and hearing date(s), and include a brief, detailed statement describing the parts of the proceedings of which a transcript has been ordered. If any other party deems other parts of the transcript necessary that were not ordered by the appellant, that party shall, within twenty days from the filing of the appellant's transcript papers, similarly order those parts [in writing] from an official court reporter. Upon submission of a transcript order, the ordering party will be provided with an order confirmation that includes the information required above.

(b) A party shall promptly make satisfactory arrangements for payment of the costs of the transcript, pursuant to guidelines established by the chief court administrator. After those arrangements have been made, an official court reporter shall [deliver] provide to the ordering party [a written] an acknowledgment of the order, with an estimated date of delivery and [the] estimated number of pages in the transcript order. The ordering party shall file [it] the acknowledgment with the appellate clerk with certification pursuant to Section 62-7. [The official court reporter shall also immediately deliver a copy of the acknowledgment to court transcript services.] If the final portion of the transcript cannot be delivered on or before the estimated delivery date on the acknowledgment, the official court reporter will, not later than the next business day, [issue] provide to the ordering party an amended transcript order acknowledgment [form (JD-ES-38A)] with a revised estimated delivery date [and shall also immediately deliver a copy of the amended acknowledgment form to court transcript services]. The

ordering party shall file the amended acknowledgment form immediately with the appellate clerk with certification pursuant to Section 62-7.

(c) An official court reporter shall cause each court recording monitor involved in the production of the transcript to prepare a certificate of delivery stating the number of pages in the transcript and the date of its delivery to the party who ordered it. If delivery is by mail, the transcript shall be mailed first class certified, return receipt requested. The date of mailing is the date of delivery. If delivery is by hand, the court recording monitor shall obtain a receipt acknowledging delivery. The date of the receipt is the date of delivery. Each court recording monitor shall forward the certificates of delivery to the official court reporter **[**with a copy to court transcript services**]**. Upon receipt of all the certificates of delivery, the official court reporter shall deliver to the ordering party a certificate of completion stating the total number of pages in the entire transcript order and the date of final delivery of the transcript order. **[**The official court reporter shall also immediately deliver a copy of the certificate of completion to court transcript services.**]**

(d) Upon receipt of the certificate of completion from the official court reporter, the ordering party shall file with the appellate clerk the certificate of completion along with a certification that a copy of the certificate of completion has been delivered to all counsel of record in accordance with Section 62-7.

(e) (1) The appellant is required, either before or simultaneously with the filing of the appellant's brief, to file with the appellate clerk one unmarked, nonreturnable copy of the transcript, including a copy

of the official court reporter's certification page, ordered pursuant to subsection (a).

(2) All other parties are likewise required, either before or simultaneously with the filing of their briefs, to file those additional portions ordered pursuant to subsection (a) but shall not include the portions already filed by the appellant.

(3) The party filing the transcript shall provide the appellate clerk and all opposing counsel with a list of the number, and inclusive dates, of the volumes being filed. Form JD-CL-62, or one similar to it, should be used to satisfy this subsection.

COMMENTARY: The purpose of these amendments is to conform this section to the new process for the electronic ordering of transcripts, consistent with the recent changes adopted by the Superior Court.

Sec. 63-10. Preargument Conferences

The chief justice or the chief judge or a designee may, in cases deemed appropriate, direct that conferences of the parties be scheduled in advance of oral argument. All civil cases are eligible for preargument conferences except habeas corpus appeals, appeals involving juvenile matters, including child protection appeals as defined in Section 79a-1, summary process appeals, foreclosure appeals, and appeals from the suspension of a motor vehicle license due to operating under the influence of liquor or drugs.

In any exempt case, all parties appearing and participating in the appeal may file a joint request for a preargument conference. In a foreclosure case, the request for a preargument conference is sufficient if jointly submitted by the owner of the equity and the foreclosing party.

In any exempt case, however, the chief justice or the chief judge or a designee may, if deemed appropriate, order a preargument conference.

The chief justice may designate a judge of the Superior Court, a senior judge or a judge trial referee **[**or senior judge**]** to preside at a conference. The scheduling of or attendance at a preargument conference shall not affect the duty of the parties to adhere to the times set for the filing of briefs. Failure of counsel of record to attend a preargument conference may result in the imposition of sanctions under Section 85-2. Unless other arrangements have been approved in advance by the conference judge, parties shall be present at the conference site and available for consultation. When a party against whom a claim is made is insured, an insurance adjuster for such insurance company shall be available by telephone at the time of such preargument conference unless the conference judge, in his or her discretion, requires the attendance of the adjuster at the conference. The conference proceedings shall not be brought to the attention of the court by the presiding officer or any of the parties unless the conference results in a final disposition of the appeal.

The following matters may be considered:

(1) Possibility of settlement;

(2) Simplification of issues;

(3) Amendments to the preliminary statement of issues;

(4) Transfer to the Supreme Court;

(5) Timetable for the filing of briefs;

(6) En banc review; and

(7) Such other matters as the conference judge shall consider appropriate.

All matters scheduled for a preargument conference before a judge trial referee are referred to that official by the chief court administrator pursuant to General Statutes § 52-434a, which vests judge trial referees with the same powers and jurisdiction as Superior Court judges and senior judges, including the power to implement settlements by opening and modifying judgments.

COMMENTARY: This amendment allows the chief justice to designate a judge of the Superior Court, in addition to a senior judge or a judge trial referee, to preside at a preargument conference.

CHAPTER 66

MOTIONS AND OTHER PROCEDURES

Sec. 66-6. Motion for Review; In General

The court may, on written motion for review stating the grounds for the relief sought, modify or vacate any order made by the trial court under Section 66-1 (a); any action by the appellate clerk under Section 66-1 (c); any order made by the trial court, or by the workers' compensation commissioner in cases arising under General Statutes § 31-290a (b), relating to the perfecting of the record for an appeal or the procedure of prosecuting or defending against an appeal; any order made by the trial court concerning a stay of execution in a case on appeal; any order made by the trial court concerning the waiver of fees, costs and security under Section 63-6 or 63-7; or any order concerning the withdrawal of appointed appellate counsel pursuant to Section 62-9 (d). Motions for review shall be filed within ten days from

the issuance of notice of the order sought to be reviewed. Motions for review of the clerk's taxation of costs under judgments of the court having appellate jurisdiction shall be governed by Section 71-3.

If a motion for review of a decision depends on a transcript of evidence or proceedings taken by an official court reporter or court recording monitor, the moving party shall file with the motion either a transcript or a copy of the transcript order **[**form (JD-ES-038)**]** confirmation. The opposing party may, within one week after the transcript or the copy of the order **[**form**]** confirmation is filed by the moving party, file either a transcript of additional evidence or a copy of the order **[**form**]** confirmation for additional transcript. Parties filing or ordering a transcript shall order an electronic version of the transcript in accordance with Section 63-8A.

COMMENTARY: The purpose of these amendments is to conform this section to the new process for the electronic ordering of transcripts, consistent with the recent changes adopted by the Superior Court.

CHAPTER 67

BRIEFS

Sec. 67-1. Brief and Appendix

In any brief or appendix, the plaintiff and defendant shall be referred to as such rather than as the appellant and appellee, wherever it is possible to do so; on a reservation the plaintiff below shall be regarded as the appellant.

Each brief shall contain a concise statement of the principal issue or issues involved in the appeal. The statement ordinarily should **[**not exceed**]** be on one page **[**in length and should be on a page**]** by

itself. The court may refuse to receive a brief not complying with this requirement.

COMMENTARY: The purpose of this amendment is to permit the requirements for the statement of issues to be applicable to both paper and electronic briefs.

Sec. 67-2. Format of Paper Briefs and Appendices for Filers Excluded or Exempt from Electronic Filing Pursuant to Section 60-8; Copies[; Electronic Briefing Requirement]

(a) Briefs and party appendices, if any, shall be typewritten or clearly photocopied from a typewritten original on white 8 1/2 by 11 inch paper. Unless ordered otherwise, briefs shall be copied on one side of the page only. Party **[**A**]**appendices may be copied on both sides of the page. The page number for briefs and party appendices shall be centered on the bottom of each page. The brief shall be fully double spaced and shall not exceed three lines to the vertical inch or twenty-seven lines to the page; footnotes and block quotations may, however, be single spaced. Only the following two **[**typefaces**]** fonts, of 12 point or larger size, are approved for use in briefs: arial and univers. Each page of a brief or party appendix shall have as a minimum the following margins: top, 1 inch; left, 1 and 1/4 inches; right, 1/2 inch; and bottom, 1 inch. Briefs and party appendices shall be firmly bound 1/4 inch from the left side, at points approximately 1/4, 1/2 and 3/4 of the length of the page, so as to make an easily opened volume.

(b) **[**When possible, parts one and two of the appendix shall be bound together. In addition, parts one and two of**] [**t**]**The brief and the party appendix, if any, may be bound together **[**with the brief**]**. When,

however, binding the brief and party appendix together would affect the integrity of the binding, the party appendix shall be bound separately from the brief. **[**When either part of the appendix exceeds one hundred and fifty pages, parts one and two of the appendix shall be separately bound.**]**

(c) **[**An appendix shall be paginated separately from the brief. The appendix shall be numbered consecutively, beginning with the first page of part one and ending with the last page of part two, and preceded by the letter ''A'' (e.g., A1 . . . A25 . . . A53).**]** The brief and party appendix, if any, shall include a single pagination scheme that starts on the cover page of the brief and continues throughout the entire document, on every page, including the cover and table of contents for the party appendix through to the last page of the party appendix. The page numbers shall be centered on the bottom of each page and shall be written as ''Page X of XX'' (e.g., Page 1 of 55 . . . Page 32 of 55 . . . Page 55 of 55). A**[**n**]** party appendix shall have an index of the names of witnesses whose testimony is cited within it. If any part of the testimony of a witness is omitted, this shall be indicated by asterisks. After giving the name of a witness, the party who called that witness shall be designated, and it shall be stated whether the testimony quoted was given on direct, cross or other examination.

(d) If constitutional provisions, statutes, ordinances, regulations, or portions of the transcript are contained in a**[**n**]** party appendix, they may be reproduced in their original form so long as the document is not reduced to less than 75 percent of its original form.

(e) Briefs and separately bound party appendices, if any, shall have a suitable front cover of white heavy paper [in the color indicated: briefs for appellants and plaintiffs in error, light blue; briefs for appellees and defendants in error, pink; reply briefs, white; briefs for amicus curiae, light green. Covers of briefs filed for cross appeals shall be of the same color as indicated for that party on the original appeal briefs. If a supplemental brief is ordered or permitted by the court, the cover shall be the same color as indicated for that party's original brief]. A back cover is not necessary; however, if one is used, it must be white.

(f) Briefs and separately bound party appendices, if any, must bear on the cover, in the following order, from the top of the page: (1) the name of the court; (2) the appellate docket number; (3) the appellate case name; (4) the nature of the brief (e.g., brief of the defendant-appellant; brief of the plaintiff-appellee on the appeal and of the plaintiff-cross appellant on the cross appeal); and (5) the name, address, telephone number and e-mail address of individual counsel who is to argue the appeal and, if different, the name, address, telephone number and e-mail address of the party's counsel of record. The foregoing shall be displayed in [the upper case of an] arial or univers [typeface] font of 12 point or larger size.

[(g) Counsel of record filing a brief shall submit an electronic version of the brief and appendix in accordance with guidelines established by the court and published on the Judicial Branch website. The brief and appendix shall be submitted electronically as separate documents. The electronic version shall be submitted prior to the timely filing of the party's paper brief and appendix pursuant to subsection (h) of this

section. Counsel of record must certify that electronically submitted briefs and appendices: (1) have been delivered electronically to the last known e-mail address of each counsel of record for whom an e-mail address has been provided; and (2) have been redacted or do not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law.**]**

(**[**h**]** g) If the appeal is in the Supreme Court, **[**fifteen**]** twelve legible photocopies of each brief and party appendix, if any, shall be filed with the appellate clerk. If the appeal is in the Appellate Court, **[**ten**]** eight legible photocopies of each brief and party appendix, if any, shall be filed with the appellate clerk.

(**[**i**]** h) All copies of the brief filed with the Supreme Court or the Appellate Court must be accompanied by a: (1) certification that a copy of the brief and party appendix, if any, has been sent to each counsel of record in compliance with Section 62-7; **[**(2) certification that the brief and appendix being filed with the appellate clerk are true copies of the brief and appendix that were submitted electronically pursuant to subsection (g) of this section;**]** (**[**3**]** 2) certification that the brief and appendix have been redacted or do not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law, except for briefs filed pursuant to Section 79a-6; and (**[**4**]** 3) certification that the brief complies with all provisions of this rule. The certification that a copy of the brief and party appendix has been sent to each counsel of record in compliance with Section 62-7 may be signed by counsel of record or

the printing service, if any. All other certifications pursuant to this subsection shall be signed by counsel of record only.

[(j) A copy of the electronic confirmation receipt indicating that the brief and appendix were submitted electronically in compliance with subsection (g) of this section shall be filed with the briefs.**]**

(**[**k**]** i) Any request for deviation from the above requirements, including requests to deviate from the requirement to redact or omit personal identifying information or information that is prohibited from disclosure by rule, statute, court order or case law, shall be filed with the appellate clerk.

COMMENTARY: The purpose of these amendments is to clarify and update the requirements for paper briefs and appendices for filers excluded or exempt from electronic filing in light of the new rules regarding electronic briefs and party appendices. These amendments are also made for consistency with the electronic briefing rules. They also reduce the number of paper copies of briefs and party appendices required to be filed.

(NEW) Sec. 67-2A. Format of Electronic Briefs and Party Appendices; Copies

(Applicable to appeals filed on or after October 1, 2021.)

(a) Briefs filed under this rule shall include the words ‘‘Filed Under the Electronic Briefing Rules’’ at the top center of the cover of the brief. Briefs and party appendices, if any, shall be uploaded together as a text searchable single document. Bookmarks are required and must link to sections of the brief and to items included in the party appendix. Briefs shall include internal hyperlinks for citations to items

included in the party appendix. Internal hyperlinks must be clearly distinguishable from other text in the brief (e.g., underlined blue text or highlighted text). External hyperlinks are not permitted. Visual aids that comply with the guidelines published on the Judicial Branch website are permitted to be included in the brief. Additional formatting information and recommendations can be found in the guidelines published on the Judicial Branch website.

(b) Briefs shall be typed in 12 point Century Schoolbook or New Century Schoolbook font, including footnotes but excluding headings. Headings must be in 14 point Georgia or New Baskerville Book font. Margins shall be 1 and 1/2 inches on all sides. All text must be left aligned. Line spacing is 1.3x and must be uniform throughout, including the body of the document, footnotes, and block quotes. Bold face or italic emphasis tools shall be used in place of underlining. Sections shall be marked sequentially using numbers or letters (e.g., 1. Introduction, 2. Statement of the facts . . . 6. Conclusion; or A. Introduction, B. Statement of the facts . . . F. Conclusion).

(c) The brief and party appendix, if any, shall include a single pagination scheme that starts on the cover page of the brief and continues throughout the entire document, on every page, including the cover and table of contents for the party appendix through to the last page of the party appendix. The page numbers shall be centered on the bottom of each page and shall be written as ‘‘Page X of XX’’ (e.g., Page 1 of 55 . . . Page 32 of 55 . . . Page 55 of 55). The party appendix shall have an index of the names of witnesses whose testimony is cited within it. Any part of the testimony of a witness that is

omitted shall be indicated by asterisks. After giving the name of a witness, the party who called that witness shall be designated, and it shall be stated whether the testimony quoted was given on direct, cross or other examination.

(d) Two legible photocopies of each brief and party appendix, if any, shall be filed with the appellate clerk. The party appendix may be printed on both sides of a page. The brief and party appendix may be bound together or separately. No specific type or style of binding is required as long as the documents are securely bound.

(e) Briefs and separately bound party appendices, if any, must bear on the cover, in the following order, from the top of the page: (1) the name of the court; (2) the appellate docket number; (3) the appellate case name; (4) the nature of the brief (e.g., brief of the defendant-appellant; brief of the plaintiff-appellee on the appeal and of the plaintiff-cross appellant on the cross appeal); and (5) the name, address, telephone number and e-mail address of individual counsel who is to argue the appeal and, if different, the name, address, telephone number and e-mail address of the party's counsel of record. The foregoing shall be displayed in Century Schoolbook or New Century Schoolbook font of 12 point size.

(f) Counsel of record filing a brief shall submit the electronic version of the brief and party appendix, if any, in accordance with guidelines established by the court and published on the Judicial Branch website. The electronic version shall be submitted prior to the timely filing of the party's paper copies of the brief and party appendix pursuant to subsection (d) of this section.

(g) All electronic and paper copies of the brief submitted and filed with the Supreme Court or the Appellate Court must be accompanied by a: (1) certification that a copy of the brief and party appendix, if any, has been sent electronically to each counsel of record in compliance with Section 62-7, except for counsel of record exempt from electronic filing pursuant to Section 60-8, to whom a paper copy of the brief and party appendix, if any, must be sent; (2) certification that the brief and party appendix being filed with the appellate clerk are true copies of the brief and party appendix that were submitted electronically pursuant to subsection (f) of this section; (3) certification that the brief and party appendix have been redacted or do not contain any names or other personal identifying information that is prohibited from disclosure by rule, statute, court order or case law, unless the brief is filed pursuant to Section 79a-6; (4) certification of the word count in the brief; (5) certification that the brief complies with all provisions of this rule; and (6) certification listing the approved deviations from this rule or that no deviations were requested/approved. The certification that a copy of the brief and party appendix has been sent to each counsel of record in compliance with Section 62-7 may be signed by counsel of record or the printing service, if any; and if copies are sent by a printing service, that certification is not required to be included in the electronic version of the brief and party appendix. All other certifications pursuant to this subsection shall be signed by counsel of record only.

(h) A copy of the electronic confirmation receipt indicating that the brief and party appendix, if any, were submitted electronically in compli-

ance with subsection (f) of this section shall be filed with the paper briefs and party appendices.

(i) Any request for deviation from the above requirements, including requests to deviate from the requirement to redact or omit personal identifying information or information that is prohibited from disclosure by rule, statute, court order or case law, shall be filed with the appellate clerk.

COMMENTARY: The purpose of this new section is to define the requirements for the format and filing of electronic briefs and party appendices and related copying obligations. The two legible photocopies of each brief and party appendix, if any, to be filed with the appellate clerk under subsection (d) are simply reproductions of the electronic filings, and do not require any additional modifications.

Sec. 67-3. Page Limitations; Time for Filing Briefs and Appendices

Except as otherwise ordered, the brief of the appellant shall not exceed thirty-five pages and shall be filed with the appendix within forty-five days after the delivery date of the transcript ordered by the appellant. In cases where no transcript is required or the transcript has been received by the appellant prior to the filing of the appeal, the appellant's brief and appendix shall be filed within forty-five days of the filing of the appeal.

The delivery date of the paper—not electronic—transcript shall be used, where applicable, in determining the filing date of briefs.

Any party whose interest in the judgment will not be affected by the appeal and who intends not to file a brief shall inform the appellate

clerk of this intent prior to the deadline for the filing of the appellee's brief. In the case of multiple appellees, an appellee who supports the position of the appellant shall meet the appellant's time schedule for filing a brief.

Except as otherwise ordered, the brief of the appellee shall not exceed thirty-five pages, and shall be filed with any appendix within thirty days after the filing of the appellant's brief or the delivery date of the portions of the transcript ordered only by that appellee, whichever is later.

The appellant may **[**within twenty days after the filing of the appellee's brief**]** file a reply brief **[**which shall not exceed fifteen pages**]** in accordance with Section 67-5A.

Where there is a cross appeal, the brief and appendix of the cross appellant shall be combined with the brief and appendix of the appellee. The brief shall not exceed fifty pages and shall be filed with any appendix at the time the appellee's brief is due. The brief and appendix of the cross appellee shall be combined with the appellant's reply brief, if any. This brief shall not exceed forty pages and shall be filed within thirty days after the filing of the original appellee's brief. The cross appellant may **[**within twenty days after the filing of the cross appellee's brief**]** file a cross appellant's reply brief **[**which shall not exceed fifteen pages**]** in accordance with Section 67-5A.

Where cases are consolidated or a joint appeal has been filed, the brief of the appellants and that of the appellees shall not exceed the page limitations specified above.

All page limitations shall be exclusive of appendices, the cover page, the table of contents, the table of authorities, the statement of issues, the signature block of counsel of record, certifications **[**the table of authorities, the table of contents,**]** and, in the case of an amicus brief, the statement of the interest of the amicus curiae required by Section 67-7. **[**The last page of a brief shall likewise not be counted if it contains only the signature of counsel of record.**]**

Briefs shall not exceed the page limitations set forth herein except by permission of the chief justice or chief judge. Requests for permission to exceed the page limitations shall be filed with the appellate clerk, stating both the compelling reason for the request and the number of additional pages sought.

Where a claim relies on the state constitution as an independent ground for relief, the clerk shall, upon request, grant an additional five pages for the appellant and appellee briefs, **[**and an additional two pages for the reply brief,**]** which pages are to be used for the state constitutional argument only.

COMMENTARY: The purpose of these amendments is to condense this section and to conform it to the new Section 67-5A regarding reply briefs, and to clarify the time period for filing a reply brief when there are multiple appellees.

(NEW) Sec. 67-3A Word Limitations; Time for Filing Electronic Briefs and Party Appendices

(Applicable to appeals filed on or after October 1, 2021.)

Except as otherwise ordered, the brief of the appellant shall not exceed 13,500 words. The brief shall be filed with the party appendix,

if any, either within forty-five days after the delivery date of the transcript ordered by the appellant or forty-five days after the clerk appendix is sent to the parties, whichever is later. In cases where no transcript is required or the transcript has been received by the appellant prior to the filing of the appeal, the appellant's brief and party appendix, if any, shall be filed either within forty-five days of the filing of the appeal or forty-five days after the clerk appendix is sent to the parties, whichever is later.

The delivery date of the paper—not electronic—transcript shall be used, where applicable, in determining the filing date of briefs.

Any party whose interest in the judgment will not be affected by the appeal and who intends not to file a brief shall inform the appellate clerk of this intent prior to the deadline for the filing of the appellee's brief. In the case of multiple appellees, an appellee who supports the position of the appellant shall meet the appellant's time schedule for filing a brief.

Except as otherwise ordered, the brief of the appellee shall not exceed 13,500 words, and shall be filed with any party appendix within thirty days after the filing of the appellant's brief or the delivery date of the portions of the transcript ordered only by that appellee, whichever is later.

The appellant may file a reply brief in accordance with Section 67-5A.

Where there is a cross appeal, the brief and party appendix, if any, of the cross appellant shall be combined with the brief and party appendix, if any, of the appellee. The brief shall not exceed 18,000 words and shall be filed with any party appendix at the time the appel-

lee's brief is due. The brief and party appendix, if any, of the cross appellee shall be combined with the appellant's reply brief, if any. This brief shall not exceed 16,000 words and shall be filed within thirty days after the filing of the original appellee's brief. The cross appellant may file a cross appellant's reply brief in accordance with Section 67-5A.

Where cases are consolidated or a joint appeal has been filed, the brief of the appellants and that of the appellees shall not exceed the word limitations specified above.

All word limitations shall be exclusive of party appendices, if any, the cover page, the table of contents, the table of authorities, the statement of issues, the signature block of counsel of record, certifications and, in the case of an amicus brief, the statement of the interest of the amicus curiae required by Section 67-7A.

Briefs shall not exceed the word limitations set forth herein except by permission of the chief justice or chief judge. Requests for permission to exceed the word limitations shall be filed with the appellate clerk, stating both the compelling reason for the request and the number of additional words sought.

Where a claim relies on the state constitution as an independent ground for relief, the clerk shall, upon request, grant an additional 2000 words for the appellant and appellee briefs, which words are to be used for the state constitutional argument only.

COMMENTARY: The purpose of this new section is provide for word limitations and outline the time periods for the filing of electronic briefs and party appendices. The time for filing the appellant's brief

and party appendix, if any, is dependent on the delivery date of the transcript ordered by the appellant or when the clerk appendix is sent to the parties, whichever is later. If there is no transcript, or if the transcript has been received by the appellant prior to the filing of the appeal, the time for filing the appellant's brief and party appendix, if any, is dependent on the date of the filing of the appeal or when the clerk appendix is sent to the parties. See Chapter 68.

(NEW) Sec. 67-5A. The Reply Brief

(Applicable to appeals filed on or after October 1, 2021.)

The appellant may file a reply brief, which should respond directly and succinctly to the arguments in the appellee's brief. The format of a reply brief shall be in accordance with Section 67-2.

The reply brief shall be filed within twenty days of the appellee's brief. If there are multiple appellees and they file separate briefs, then the time to file a reply brief shall run from the filing date of the last appellee's brief.

Except as otherwise ordered, the reply brief shall not exceed fifteen pages or 6500 words exclusive of the cover page, the table of contents, the table of authorities, the signature block of counsel of record, certifications and any appendix. Requests for permission to exceed fifteen pages or 6500 words shall be filed in accordance with Section 67-3 or 67-3A.

If there is a cross appeal, the cross appellant may file a reply brief as to the cross appeal in accordance with the requirements of this rule.

Where a claim relies on the state constitution as an independent ground for relief, the clerk shall, upon request, grant an additional two

pages or 800 words for the reply brief, which pages or words are to be used for the state constitutional argument only.

COMMENTARY: This new section sets forth more generally the requirements for the reply brief in a separate rule, expanding on what is set forth in Section 67-3. In addition, it incorporates the requirement that the reply brief respond directly and succinctly to the arguments in the appellee's brief.

(NEW) Sec. 67-7A. The Amicus Curiae Electronic Brief

(Applicable to appeals filed on or after October 1, 2021.)

(a) A brief of an amicus curiae in cases before the court on the merits may be filed only with the permission of the court unless Section 67-7A (f) applies. An application for permission to appear as amicus curiae and to file a brief shall be filed within twenty days after the filing of the brief of the party, if any, whom the applicant intends to support, and if there is no such party, then the application shall be filed no later than twenty days after the filing of the appellee's brief.

(b) The application shall state concisely the nature of the applicant's interest and the reasons why a brief of an amicus curiae should be allowed. The length of the brief shall not exceed 4000 words unless a specific request is made for a brief of more than that length. The application shall conform to the requirements set forth in Sections 66-2 and 66-3. The amicus application should specifically set forth reasons to justify the filing of a brief in excess of 4000 words. A party in receipt of an application may, within ten days after the filing of the application, file an objection concisely stating the reasons therefor.

(c) All briefs filed under this section shall comply with the applicable provisions of this chapter and shall set forth the interest of the amicus curiae.

(d) An amicus curiae may argue orally only when a specific request for such permission is granted by the court in which the appeal is pending.

(e) With the exception of briefs filed by the attorney general as provided by this rule, all briefs shall indicate whether counsel for a party wrote the brief in whole or in part and whether such counsel or a party contributed to the cost of the preparation or submission of the brief and shall identify those persons, other than the amicus curiae, its members or its counsel, who made such monetary contribution. The disclosure shall be made in the first footnote on the first page of text.

(f) Except for habeas corpus matters based on criminal convictions, if an appeal in a noncriminal matter involves an attack on the constitutionality of a state statute, the attorney general may appear and file a brief amicus curiae as of right. Any such appearance by the attorney general shall be filed no later than the date on which the brief of the party that the attorney general supports is filed, and the attorney general's brief will be due twenty days after the filing of the brief of the party that the attorney general supports.

COMMENTARY: This new section sets forth the requirements for the amicus curiae electronic brief.

Sec. 67-8. The Party Appendix[; Contents and Organization]

(a) **[**An**]** No party appendix is required in either a court or a jury case, except where an opinion is cited that is not officially published, in which case the text of the opinion must be included in the party appendix **[**shall be prepared in accordance with Section 67-2**]**.

[(b) The appellant's appendix shall be divided into two parts.

(1) Part one of the appellant's appendix shall contain: a table of contents giving the title or nature of each item included; the docket sheets, a case detail, or court action entries in the proceedings below; in chronological order, all relevant pleadings, including the operative complaint and any other complaint at issue, motions, requests, findings, and opinions or decisions of the trial court or other decision-making body (see Sections 64- 1 and 64-2); the signed judgment file, if applicable, prepared in the form prescribed by Section 6-2 et seq.; the appeal form, in accordance with Section 63-3; the docketing statement filed pursuant to Section 63-4 (a) (3); any relevant appellate motions or orders that complete or perfect the record on appeal; and, in appeals to the Supreme Court upon grant of certification for review, the order granting certification and the opinion or order of the Appellate Court under review.

A signed judgment file is not required in the following noncriminal matters: habeas corpus matters based on criminal convictions; pre- and postjudgment orders in matters claiming dissolution of marriage, legal separation or annulment; prejudgment remedies under chapter 903a of the General Statutes; and actions of foreclosure of title to real property.

In administrative appeals, part one of the appellant's appendix also shall meet the requirements of Section 67-8A (a). In criminal or habeas appeals filed by incarcerated self-represented parties, part one of the appendix shall be prepared by the appellee. See Section 68-1. In these appeals, the filing of an appendix by incarcerated self-represented parties shall be in accordance with subsection (c) of this rule.

(2) Part two of the appellant's appendix may contain any other portions of the proceedings below that the appellant deems necessary for the proper presentation of the issues on appeal. Part two of the appellant's**]** A party appendix may be used: (1) to include excerpts **[**of**]** from **[**lengthy**]** exhibits**[**,**]**; (2) to include excerpts from the transcripts deemed necessary by any parties pursuant to Section 63-4 (a) **[**(2)**]** (3)**[**,**]**; **[**provided that the transcript cover page and certification page are included,**]** (3) to provide other items from the proceedings below that a party deems necessary for the proper presentation of the issues on appeal; or (4) to comply with other provisions of the **[**Practice Book**]** rules of practice that require the inclusion of certain materials in the party appendix.

The transcript cover page and certification page must be included with any transcript excerpt. To reproduce a full transcript or **[**lengthy**]** exhibit when an excerpt would suffice, or to include portions of the proceedings below that are not necessary for the proper presentation of the issues on appeal, is a misuse of **[**an**]** a party appendix. Pursuant to Sections 67-2 (a) and 67-2A (a), briefs shall include internal hyperlinks for citations to items included in the party appendix.

[Where an opinion is cited that is not officially published, the text of the opinion shall be included in part two of the appendix.**]**

(b) The party appendix, if any, shall be prepared in accordance with Section 67-2 or Section 67-2A. A party appendix shall have at its beginning a table of contents of any items in it. If constitutional provisions, statutes, ordinances, regulations, or portions of the transcript are contained in a party appendix, they may be reproduced in their original form so long as the document is not reduced to less than 75 percent of its original form.

(c) **[**The appellee's appendix should not include the portions of the proceedings below already included in the appellant's appendix. If the appellee determines that part one of the appellant's appendix does not contain portions of the proceedings below, the appellee shall include any such items that are required to be included pursuant to Section 67-8 (b) (1) in part one of its appendix. Where an appellee cites an opinion that is not officially published and is not included in the appellant's appendix, the text of the opinion shall be included in part two of the appellee's appendix. Part two of the appellee's appendix may also contain any other portions of the proceedings below that the appellee deems necessary for the proper presentation of the issues on appeal. If the appellee includes excerpts from the transcripts deemed necessary pursuant to Section 63-4 (a) (2) in the appendix, the transcript cover page and the certification page shall be included with the excerpts.

(d) In appeals where**]** All briefs and party appendices shall protect personal identifying information **[**is**]** as defined by Section 4-7, or other

information protected by rule, statute, court order or case law[, and in]. A[a]ppeals that have been ordered sealed in part or in their entirety or are subject to limited disclosure [pursuant to] shall comply with Section 77-2[, all briefs and appendices shall be prepared in accordance with Section 67-2].

COMMENTARY: The purpose of these amendments is to set forth the requirements for a party appendix in light of the new rules regarding the clerk appendix. A party appendix, if any, is produced by a party and serves to supplement the clerk appendix. See Chapter 68. Slip opinions issued by the Supreme or Appellate Court that have not yet been published in the Connecticut Law Journal need not be included in a party appendix.

CHAPTER 68

CASE FILE AND CLERK APPENDIX

Sec. 68-1. Responsibilities of Clerk of the Trial Court regarding Copying Case File and Additions to Case File Made after Appeal Is Filed; Exhibits and Lodged Records

(a) With the exception of those appeals in which the contents of the case file consist solely of papers filed by electronic means, the clerk of the trial court shall, within ten days of the filing of the appeal, prepare and forward to the appellate clerk one complete copy of the case file, including the case detail page for noncriminal cases and all written requests to charge. No omissions may be made from the case file except upon the authorization of the appellate clerk. The appellate clerk may direct the clerk of the trial court to prepare and to forward a case file in any other instance in which it is needed. The clerk of

the trial court shall, within five days of the filing, forward to the appellate clerk one copy of all additions made to the case file after the initial preparation and transmittal of the case file.

Nothing in this section relieves the appellant and the appellee of their duty to comply with the party appendix requirements of Section 67-8.

[(b) (1) In criminal appeals filed by incarcerated self-represented parties, the clerk of the trial court shall forward to the Office of the Chief State's Attorney one complete copy of the case file and all written requests to charge for use in preparing part one of the appendix pursuant to Section 67-8 (b).

(2) In habeas appeals filed by incarcerated self-represented parties, the clerk of the trial court shall forward to either the Office of the Chief State's Attorney or the Office of the Attorney General one complete copy of the case file, including the case detail page and all written requests to charge for use in preparing part one of the appendix pursuant to Section 67-8 (b).

(3) In criminal and habeas appeals filed by incarcerated self-represented parties, the Office of the Chief State's Attorney or the Office of the Attorney General and the clerk of the trial court may agree that the copy of the case file be provided by electronic means.**]**

(**[**c**]** b) Each document of the case file must be numbered, and the file must include a table of contents listing each item entered in the file according to its number.

(**[**d**]** c) In an appeal from an administrative agency, the papers returned by the agency to the trial court, even though annexed to

and incorporated by reference in the answer, shall accompany the copy**[**ies**]** of the file that is numbered and indexed pursuant to subsection (b) **[**but need not be included in the copies of the file**]**.

(**[**e**]** d) All exhibits in the trial court are deemed exhibits on appeal and are deemed in the custody of the appellate clerk while the appeal is pending. The appellate clerk shall notify the clerk of the trial court of the exhibits required by the court in which the appeal is pending. Within ten days of such notice, the clerk of the trial court shall transmit those exhibits to the appellate clerk accompanied by a list of all exhibits in the case. The clerk of the trial court shall notify all counsel of record of the transmittal and provide them with a copy of the exhibit list. The provisions of this paragraph shall apply to records lodged pursuant to Section 7-4C.

COMMENTARY: The purpose of these amendments is to update the section with regard to the responsibilities of the clerk of the trial court and the copying of the case file in light of the new rules concerning the clerk appendix. The amendments eliminate the need for the clerk of the trial court to forward a copy of the case file to the Office of the Chief State's Attorney or the Office of the Attorney General in criminal and habeas appeals filed by self-represented parties who are incarcerated.

(NEW) Sec. 68-2A. Assembly of the Clerk Appendix

(Applicable to appeals filed on or after October 1, 2021.)

As soon as possible after the filing of the appeal and the delivery of the case file, the appellate clerk shall assemble the clerk appendix. After assembling the clerk appendix, the appellate clerk shall upload

the clerk appendix in a searchable portable document format to the appellate file and deliver it to the parties.

COMMENTARY: This new section sets forth the requirements for the assembly of the clerk appendix by the appellate clerk. The clerk appendix is a file assembled by the appellate clerk that includes key documents pertaining to the case on appeal. These documents are consolidated for the convenience of the Supreme and Appellate Courts and the parties.

(NEW) Sec. 68-3A. Clerk Appendix Contents

(Applicable to appeals filed on or after October 1, 2021.)

The clerk appendix shall contain the oral or written decision that is the subject of the appeal, pleadings, motions, orders and other documents (but not memoranda of law) docketed in the case file that are necessary for presenting the issues on appeal. The appellate clerk shall assemble the clerk appendix based on a review of the case file and the preliminary papers submitted by the parties pursuant to Section 63-4. The appellate clerk may confer with counsel and with the clerk of the trial court to determine the contents of the clerk appendix. Officer's returns, transcripts and exhibits shall not be included in the clerk appendix unless they had been annexed to a document docketed in the case file in the proceedings below. Nevertheless, exhibits annexed to a document docketed in the case file in the proceedings below may be excluded from the clerk appendix at the discretion of the appellate clerk. The contents of the clerk appendix in administrative appeals is governed by Section 68-10A.

COMMENTARY: This new section outlines the contents of the clerk appendix. The clerk appendix shall contain the oral or written decision that is the subject of the appeal, certain pleadings, the appeal form, the docketing statement filed pursuant to Section 63-4 (a) (4), any relevant appellate motions or orders that complete or perfect the record on appeal, and, in appeals to the Supreme Court upon the granting of certification for review, the order granting certification and the opinion or order of the Appellate Court under review. The contents of the clerk appendix is left to the discretion of the appellate clerk, working in conjunction with the parties, and the parties shall designate the proposed contents of the clerk appendix under Section 63-4 (a) (2).

(NEW) Sec. 68-4A. Clerk Appendix Format

(Applicable to appeals filed on or after October 1, 2021.)

The cover of the clerk appendix shall include the following in order from the top of the page: (1) the name of the court; (2) the appellate docket number; and (3) the appellate case name. The appellate clerk shall prepare a table of contents giving the title or nature of each document included in the clerk appendix, along with the corresponding page number on which the document begins. The pages of the clerk appendix shall be numbered sequentially. The date when each paper contained in the clerk appendix was filed must be stated.

COMMENTARY: This new section sets forth the formatting requirements for the clerk appendix.

(NEW) Sec. 68-5A. Clerk Appendix when More than One Appeal

(Applicable to appeals filed on or after October 1, 2021.)

When more than one appeal is taken from the same trial court docket number, the appellate clerk has the discretion to assemble only one clerk appendix.

COMMENTARY: This new section provides the appellate clerk with discretion to assemble only one clerk appendix when more than one appeal is taken from the same trial court docket number.

(NEW) Sec. 68-6A. Clerk Appendix when Several Cases Present Same Question

(Applicable to appeals filed on or after October 1, 2021.)

In the discretion of the appellate clerk, if several cases are pending in which the same question of law is presented, whether between the same or different parties, such clerk may assemble only one clerk appendix.

COMMENTARY: This new section provides the appellate clerk with discretion to assemble only one clerk appendix when several cases present the same question of law.

(NEW) Sec. 68-8A. Supplements

(Applicable to appeals filed on or after October 1, 2021.)

After the clerk appendix has been filed, the appellate clerk may supplement the clerk appendix as needed and shall upload any supplement to the appellate file and deliver it to the parties.

COMMENTARY: This new section authorizes the appellate clerk to supplement the clerk appendix after it has been assembled and sets forth the process for supplementation.

(NEW) Sec. 68-10A. Clerk Appendix in Administrative Appeals; Exceptions

(Applicable to appeals filed on or after October 1, 2021.)

(a) If not already included in the copy of the case file pursuant to subsection (c), in appeals from administrative agencies, the clerk appendix shall include the part of the return of the administrative agency which identifies the papers returned to the trial court, and also such of the papers returned as consist of (1) the application or appeal to the agency; (2) the notice of hearing and the affidavit of publication, if they are at issue in the appeal; and (3) any minutes or decision showing the action taken by the agency, the reasons assigned for that action and any findings and conclusions of fact made by the agency. The clerk appendix shall also contain such other portions of the returned agency record as the appellate clerk finds are needed for the proper presentation of any of the issues on appeal. Relevant portions of the record before the agency returned by it to the trial court but not included in the clerk appendix should be reproduced in the brief or party appendix as provided in Section 67-8.

(b) The party appendix, if any, shall be prepared in accordance with the provisions of Section 67-8.

(c) Subsection (a) shall not apply to the following administrative appeals:

(1) Appeals from municipal boards of tax review filed pursuant to General Statutes §§ 12-117a and 12-119.

(2) Appeals from municipal assessors filed pursuant to General Statutes § 12-103.

(3) Appeals from the Commissioner of Revenue Services.

(4) Appeals from the insurance commissioner filed pursuant to General Statutes § 38a-139.

(5) Any other appeal in which the parties received a trial de novo in the Superior Court.

The clerk appendix in these matters shall be assembled pursuant to the rules applicable to the clerk appendix in ordinary civil actions.

COMMENTARY: This new section outlines the contents of the clerk appendix in administrative appeals and lists the types of administrative appeals to which the section does not apply.

(NEW) Sec. 68-11A. Decision To Be Part of Clerk Appendix

(Applicable to appeals filed on or after October 1, 2021.)

The oral or written decision that is the subject of the appeal shall be included as part of the clerk appendix. See Sections 64-1 and 64-2.

COMMENTARY: This new section requires that the oral or written decision that is the subject of the appeal be included as part of the clerk appendix.

CHAPTER 77

PROCEDURES CONCERNING COURT CLOSURE AND SEALING ORDERS OR ORDERS LIMITING THE DISCLOSURE OF FILES, AFFIDAVITS, DOCUMENTS OR OTHER MATERIAL

Sec. 77-1. Petition for Review Seeking Expedited Review of an Order concerning Court Closure, or an Order That Seals or Limits the Disclosure of Files, Affidavits, Documents or Other Material

(a) Except as provided in subsection (b), any person affected by a court order which prohibits the public or any person from attending

any session of court, or any order that seals or limits the disclosure of files, affidavits, documents or other material on file with the court or filed in connection with a court proceeding, may seek review of such order by filing a petition for review with the Appellate Court within seventy-two hours after the issuance of the order. The petition shall fully comply with Sections 66-2 and 66-3. The petition shall not exceed ten pages in length, exclusive of the appendix, except with special permission of the Appellate Court. An appendix containing the information or complaint, the answer, all motions pertaining to the matter, the opinion or orders of the trial court sought to be reviewed, a list of all parties with the names, addresses, telephone numbers, e-mail addresses, and, if applicable, the juris number of their counsel, the names of all judges who participated in the case, and **[**a**]** an expedited transcript order confirmation **[**acknowledgment form (JD-ES-038)**]**, shall be filed with the petition for review.

Any person filing a petition for review pursuant to this rule shall deliver a copy of the petition and appendix to (1) all parties to the case and (2) any nonparty who sought the closure order or order sealing or limiting disclosure in compliance with the provisions of Section 62-7 on the same day as the petition is filed. Any party or nonparty who sought such order may file a response to the petition for review within ninety-six hours after the filing of the petition for review. Failure to file a response shall not preclude the party or nonparty who sought the order under review from participating in the hearing on the petition. Within one business day of the receipt of the transcript and the certificate of completion provided for by Section 63-8 (c), the person filing

the petition for review shall file the transcript and the certificate of completion with the Appellate Court.

The filing of any petition for review of a court order which prohibits the public or any person from attending any session of court shall stay the order until the final determination of the review. The filing of any petition for review of an order that seals or limits the disclosure of files, affidavits, documents or other material on file with the court shall not stay the order during the review.

After the receipt of the transcript and the response to the petition, if any, the Appellate Court shall hold an expedited hearing on any petition for review. The appellate clerk will notify the petitioner, the parties and any nonparties who sought the closure order or order sealing or limiting disclosure of files, affidavits, documents or other material on file with the court or filed in connection with a court proceeding of the date and time of the hearing. After such hearing the Appellate Court may affirm, modify or vacate the order reviewed.

(b) This section shall not apply to court orders concerning any session of court conducted pursuant to General Statutes § 46b-11, § 46b-49, § 46b-122, § 54-76h or any other provision of the General Statutes under which the court is authorized to close proceedings. This section also shall not apply to any order issued pursuant to General Statutes § 46b-11 or § 54-33c or any other provision of the General Statutes under which the court is authorized to seal or limit the disclosure of files, affidavits, documents or materials and any order issued pursuant to a court rule that seals or limits the disclosure of any affidavit in support of an arrest warrant.

COMMENTARY: The purpose of these amendments is to conform this section to the new process for the electronic ordering of transcripts, consistent with the recent changes adopted by the Superior Court.

CHAPTER 84

APPEALS TO SUPREME COURT BY CERTIFICATION FOR REVIEW

Sec. 84-2. Basis for Certification

Certification by the Supreme Court on petition by a party is not a matter of right but of sound judicial discretion and will be allowed only where there are special and important reasons therefor. The following, while neither controlling nor fully measuring the court's discretion, indicate the character of the reasons which will be considered:

(1) Where the Appellate Court has decided a question of substance not theretofore determined by the Supreme Court or has decided **[**it**]** a question in a way probably not in accord with applicable decisions of the Supreme Court.

(2) Where the decision under review is in conflict with other decisions of the Appellate Court.

(3) Where the Appellate Court has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such a departure by any other court, as to call for an exercise of the Supreme Court's supervision.

(4) Where a question of great public importance is involved.

(5) Where the judges of the appellate panel are divided in their decision or, though concurring in the result, are unable to agree upon a common ground of decision.

COMMENTARY: This amendment was made for clarification purposes.

Sec. 84-5. Form of Petition

(a) A petition for certification shall contain the following sections in the order indicated here:

(1) A brief introduction providing context for the statement of the questions presented for review.

(**[**1**]** 2) A statement of the questions presented for review, expressed in the terms and circumstances of the case but without unnecessary detail. The Supreme Court will ordinarily consider only those questions squarely raised, subject to any limitation in the order granting certification.

[(2) A statement of the basis for certification identifying the specific reasons, including but not limited to those enumerated in Section 84-2, why the Supreme Court should allow the extraordinary relief of certification.**]**

(3) A **[**summary**]** brief history of the case containing the facts material to the consideration of the questions presented, **[**reciting**]** including the disposition of the matter in the Appellate Court, and **[**describing specifically**]** if applicable, a specific description of how the Appellate Court decided the questions presented for review in the petition.

(4) A concise argument **[**amplifying the reasons relied upon to support the petition**]** expanding on the bases for certification, as presented in Section 84-2, and explaining why the Supreme Court should allow the extraordinary relief of certification. No separate memorandum of law in support of the petition will be accepted by the appellate clerk.

(5) An appendix, which shall be paginated separately from the petition with consecutively numbered pages preceded by the letter ''A,'' containing:

(A) a table of contents,

(B) the opinion or order of the Appellate Court sought to be reviewed,

(C) if the opinion or order of the Appellate Court was per curiam or a summary affirmance or dismissal, a copy of the trial court's memorandum of decision that was entered in connection with the claim raised by the petitioner before the Appellate Court, or, if no memorandum was filed, a copy of the trial court's ruling on the matter,

(D) a copy of the order on any motion which would stay or extend the time period for filing the petition,

(E) a list of all parties to the appeal in the Appellate Court with the names, addresses, telephone numbers, e-mail addresses, and, if applicable, the juris numbers of their trial and appellate counsel.

(b) The petition shall not exceed ten pages in length, exclusive of the appendix, except with special permission of the appellate clerk. The petition shall be typewritten and fully double spaced, and shall not exceed three lines to the vertical inch or twenty-seven lines to the page. Footnotes and block quotations may be single spaced. Only the following two typefaces, of 12 point or larger size, are approved for use in petitions: arial and univers. Each page of a petition shall have as a minimum the following margins: top, 1 inch; left, 1 and 1/4 inches; right, 1/2 inch; and bottom, 1 inch.

COMMENTARY: The purpose of these amendments is to improve the format for petitions for certification.

(NEW) Sec. 84-6A. Petitions, Responses and Statements in Opposition in Family and Child Protection Matters and Other Matters Involving Minor Children

In family and child protection matters and other matters involving minor children, counsel for the minor child and/or counsel for the guardian ad litem shall, within ten days of the filing of the response or opposition to a petition for certification or, if no response or opposition is filed, within fifteen days of the filing of the petition, file either (1) a response, (2) a statement adopting the position of either the petitioner or a respondent or (3) a detailed statement that the factual or legal issues proposed in the petition for certification do not implicate the child's interests.

COMMENTARY: The purpose of this new section is to require counsel for minor children or counsel for guardians ad litem in matters involving minor children to file a response to or a statement of position in connection with a petition for certification.

CHAPTER 84a

MATTERS WITHIN SUPREME COURT'S ORIGINAL JURISDICTION IN WHICH FACTS MAY BE FOUND

Sec. 84a-2. Procedure for Filing Original Jurisdiction Action; Pleadings and Motions

An original jurisdiction action shall be filed in accordance with the procedures for filing an appeal as set forth in Section 63-3. Motions and any other documents prescribed in the rules of appellate procedure shall be filed in accordance with the rules of appellate procedure.

[Thereafter,] In all other respects and unless otherwise ordered in a particular case, [the form of] pleadings and motions [prescribed in the rules of practice should be followed in an original action in the Supreme Court.] shall be filed in accordance with the Superior Court rules of procedure, [In other respects, those rules, when their application is appropriate,] which may be taken as a guide to procedure in an original action in this court.

COMMENTARY: These amendments clarify that, in an original jurisdiction action filed in the Supreme Court, motions and any other documents prescribed in the rules of appellate procedure are governed by the rules of appellate procedure rather than rules of procedure governing the Superior Court.