Minutes of the Meeting
Rules Committee of the Superior Court
Monday, November 15, 2021

On Monday, November 15, 2021, the Rules Committee met using Microsoft Teams from 2:00 p.m. to 2:27 p.m.

Members in attendance were:

HON. ANDREW J. McDONALD, CHAIR
HON. HOLLY ABERY-WETSTONE
HON. BARBARA N. BELLIS
HON. SUSAN QUINN COBB
HON. JOHN B. FARLEY
HON. TAMMY T. NGUYEN-O'DOWD
HON. SHEILA PRATS

Also in attendance were Joseph J. Del Ciampo, Counsel to the Rules Committee, and Lori Petruzzelli, Assistant Counsel to the Rules Committee. Judges Alex V. Hernandez and Anthony D. Truglia, Jr., were absent.

1. The Committee approved the minutes of the meeting held on September 13, 2021, with no revisions. Judge Farley abstained. Thereafter, Judge Abery-Wetstone joined the meeting.

2. The Committee considered a proposal from Chief Justice Richard A. Robinson for a new rule eliminating peremptory challenges based on race or ethnicity, as recommended by the Jury Selection Task Force (RC ID # 2021-015).

Chief Justice Robinson was present and addressed the Committee, requesting that the Jury Selection Task Force be afforded time to consider comments received by the Committee on said proposal.

After discussion, the Committee tabled this proposal to the December meeting and instructed counsel to submit to the Jury Selection Task Force the comments received from Judge Abrams, Chief Administrative Judge, Civil Matters; Attorney Harry Weller and Attorney Peter J. Zarella; Attorney Joette Katz; the Connecticut Trial Lawyers Association, the Connecticut Defense

Lawyers Association, and Judge Gold, Chief Administrative Judge, Criminal Matters. In addition, the Chief Justice requested that counsel furnish him with copies of the aforesaid comments.

3. The Committee considered a proposal from Natasha M. Pierre, State Victim Advocate, to amend several rules and sections to advise crime victims of rights and to provide notice to victims and the opportunity for victims to provide statements (RC ID # 2019-004).

Judge Gold, Chief Administrative Judge, Criminal Matters, was present and addressed the Committee. After discussion, the Committee tabled this proposal to the December meeting to afford Attorney Pierre the opportunity to address the Committee.

4. The Committee considered a proposal from Attorney Peter J. Zarella to amend Section 23-1 to replace existing language concerning sections of the General Statutes with "Chapter 909 of the General Statutes" to make the order to show cause procedures applicable to proceedings under the Revised Uniform Arbitration Act (RC ID # 2021-008).

After discussion, the Committee voted unanimously to submit to public hearing the proposal from Attorney Zarella to amend Section 23-1, after incorporating the recommendation by the Connecticut Bar Association to also include in Section 23-1 a reference to "Chapter 862" of the General Statutes, in the form set forth in Appendix A, attached to these minutes.

5. The Committee considered a proposal from Judge Bernadette Conway, former Chief Administrative Judge, Juvenile Division, to amend Sections 27-1A and 27-4A regarding the nonjudicial handling of certain delinquency cases to implement recommendations of the IOYouth Task Force. (RC ID # 2021-011).

Judge Dawne G. Westbrook, Chief Administrative Judge, Juvenile Division, was present and addressed the Committee, adopting the proposals of Judge Conway.

After discussion, the Committee voted unanimously to submit to public hearing the revised proposal from Judge Westbrook to amend Sections 27-1A and 27-4A, in the form set forth in Appendix B, attached to these minutes.

6. The Committee considered a proposal from Judge Cesar A. Noble to revise the standard premises liability interrogatories (Practice Book Form 203) and requests for production (Practice Book Form 206) to include whether there was an agreement for snow and ice removal and the existence of a contract for the same (RC ID # 2021-014).

After discussion, the Committee tabled this proposal until the December meeting and referred the comments from the Connecticut Trial Lawyers Association and the Connecticut Defense Lawyers Association to Judge Noble, and to Judge Abrams, Chief Administrative Judge, Civil Matters, for consideration and comment.

7. The Committee considered a proposal by Judge Dawne A. Westbrook, Chief Administrative Judge, Juvenile Division, to revise Section 35a-1 (b) to remove the written requirement for nolo pleas (RC ID # 2021-019).

After discussion, the Committee tabled this proposal until the December meeting and referred the matter for comment to the Attorney General, the Office of the Chief State's Attorney, the Office of the Chief Public Defender, and the Connecticut Criminal Defense Lawyers Association.

8. The Committee considered a proposal by the Reporter of Judicial Decisions to add a reference in Section 3-9 to new Section 35a-20A (RC ID # 2021-020).

Attorney Petruzzelli was present and addressed the Committee.

After discussion, the Committee voted unanimously to submit to public hearing the proposal from the Reporter of Judicial Decisions to amend Section 3-9 to add a reference to new Section 35a-20A, in the form set forth in Appendix C, attached to these minutes.

9. The Committee considered a proposal by the Reporter of Judicial Decisions to amend Sections 13-8 and 13-10 to add references to the relevant new medical negligence forms, prohibiting objections to said standard interrogatories and requests for production (RC ID # 2021-021).

Attorney Petruzzelli was present and addressed the Committee.

After discussion, the Committee voted unanimously to submit to public hearing the proposal from the Reporter of Judicial Decisions to amend Sections 13-8 and 13-10 to add references to the relevant new medical negligence forms, in the form set forth in Appendix D, attached to these minutes.

10. The Committee considered a proposal by the Reporter of Judicial Decisions to amend Sections 43-39 and 43-41 to include references to new Section 43-40A, regarding speedy trial time calculations (RC ID # 2021-022).

Attorney Petruzzelli was present and addressed the Committee.

After discussion, the Committee voted unanimously to submit to public hearing the proposal from the Reporter of Judicial Decisions to amend Sections 43-39 and 43-41 to include references to new Section 43-40A regarding speedy trial time calculations, in the form set forth in Appendix E, attached to these minutes.

Respectfully submitted,

Joseph J. Del Ciampo
Counsel to the Rules Committee

Appendix A (111521)

Sec. 23-1. Arbitration; Confirming, Correcting or Vacating Award

In proceedings brought for confirming, vacating or correcting an arbitration award under [General Statutes §§ 52-417, 52-418 or 52-419] chapters 862 and 909 of the General Statutes, the court or judge to whom the application is made shall cause to be issued a citation directing the adverse party or parties in the arbitration proceeding to appear on a day certain and show cause, if any there be, why the application should not be granted.

COMMENTARY: The changes to this section are intended to ensure that consistent standard procedures will be used in proceeding brought for confirming, vacating or correcting and arbitration award.

Appendix B (111521)

Sec. 27-1A. Referrals for Nonjudicial Handling of Delinquency Complaints

(a) Any police summons accompanied by a police report alleging an act of delinquency shall be in writing and signed by the police officer and filed with the clerk of the Superior Court for juvenile matters. After juvenile identification and docket numbers are assigned, the summons and report shall be referred to the probation department for possible nonjudicial handling.

(b) If the probation [officer] supervisor or designee determines that a delinquency complaint is eligible for nonjudicial handling, the probation officer [may cause a notice to be mailed to the child and parent or guardian setting forth with reasonable particularity the contents of the complaint and fixing a time and location of the court and date not less than seven days, excluding Saturdays, Sundays, and holidays, subsequent to mailing] shall contact the parent or guardian in advance of the summons date in order to schedule an interview with the parent or guardian and child for the purpose of conducting risk and behavioral health screenings. A child determined by the risk screen to be at low risk to reoffend will be referred to community based diversionary programs with no further court intervention. Judicial handling will be reserved for those found to be at the highest levels of risk. All other cases will be eligible for nonjudicial handling. Refusal to participate in the screening process will render the child ineligible for diversion.

(c) Delinquency matters eligible for nonjudicial handling shall be designated as such on the docket. If the prosecuting authority objects to the designation, the judicial authority shall

determine if such designation is appropriate. The judicial authority may refer to the Office of Juvenile Probation a matter so designated and may, sua sponte, refer a matter for nonjudicial handling prior to adjudication.

COMMENTARY: The changes to this section and to Section 27-4A implement the recommendation of the IOYouth Task Force to more strategically direct juvenile delinquency cases from the formal court process.

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

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

(1) The alleged misconduct is:

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

(B) [concerns the theft or unlawful use or operation of a motor vehicle] a violent felony; or

(C) [concerns the sale of, or possession of with intent to sell, any illegal drugs or the use or possession of a firearm.] a violation of General Statutes § 53a-54d; or

[(2) The child was previously adjudicated delinquent or adjudged a child from a family with service needs alleged misconduct was committed by a child while on probation or under judicial supervision.

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

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

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

COMMENTARY: The changes to this section and to Section 27-1A implement the recommendation of the IOYouth Task Force to more strategically direct juvenile delinquency cases from the formal court process.

Appendix C (111521)

Sec. 3-9. Withdrawal of Appearance; Duration of Appearance

(a) An attorney or party whose appearance has been filed shall be deemed to have withdrawn such appearance upon the filing of a new appearance that is stated to be in place of the appearance on file in accordance with Section 3-8. Appropriate entries shall be made in the court file. An attorney or party whose appearance is deemed to have been withdrawn may file an appearance for the limited purpose of filing an objection to the in place of appearance at any time.

(b) An attorney may withdraw his or her appearance for a party or parties in any action after the appearance of other counsel representing the same party or parties has been entered. An application for withdrawal in accordance with this subsection shall state that such an appearance has been entered and that such party or parties are being represented by such other counsel at the time of the application. Such an application may be granted by the clerk as of course, if such an appearance by other counsel has been entered.

(c) In addition to the grounds set forth in subsections (a), (b), and (d), a lawyer who represents a party or parties on a limited basis in accordance with Section 3-8 (b) and has completed his or her representation as defined in the limited appearance, shall file a certificate of completion of limited appearance on Judicial Branch form JD-CL-122. The certificate shall constitute a full withdrawal of a limited appearance. Copies of the certificate must be served in accordance with Sections 10-12 through 10-17 on the client, and all attorneys and self-represented parties of record.

(d) All appearances of counsel shall be deemed to have been withdrawn 180 days after the entry of judgment in any action seeking a dissolution of marriage or civil union, annulment, or legal separation, provided no appeal shall have been taken. In the event of an appeal or the filing of a motion to open a judgment within such 180 days, all appearances of counsel shall be deemed to have been withdrawn after final judgment on such appeal or motion or within 180

days after the entry of the original judgment, whichever is later. Nothing herein shall preclude or prevent any attorney from filing a motion to withdraw with leave of the court during that period subsequent to the entry of judgment. In the absence of a specific withdrawal, counsel will continue of record for all postjudgment purposes until 180 days have elapsed from the entry of judgment or, in the event an appeal or a motion to open a judgment is filed within such 180 day period, until final judgment on that appeal or determination of that motion, whichever is later.

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

(f) All appearances in juvenile matters shall be deemed to continue during the period of delinquency probation supervision or probation supervision with residential placement, family with service needs supervision, any commitment to the Commissioner of the Department of Children and Families pursuant to General Statutes § 46b-129 or protective supervision. An attorney appointed by the chief public defender to represent a parent in a pending neglect or uncared for proceeding shall continue to represent the parent for any subsequent petition to terminate parental rights if the attorney remains under contract to the Office of the Chief Public Defender to represent parties in child protection matters, the parent appears at the first hearing on the termination petition and qualifies for appointed counsel, unless the attorney files a motion to withdraw pursuant to Section 3-10 that is granted by the judicial authority or the parent requests a new attorney. The attorney shall represent the client in connection with appeals, subject to Section 35a-20 or 35a-20A, and with motions for review of permanency plans, revocations or postjudgment motions and shall have access to any documents filed in court. The attorney for the child shall continue to represent the child in all proceedings relating to the child, including termination of parental rights and during the period until final adoption following termination of parental rights.

COMMENTARY: The change to subsection (f) adds a reference to Section 35a-20A, which was adopted to take effect on January 1, 2022, so that an attorney's representation of a client

in connection with appeals from certain juvenile matters is subject to Sections 35a-20 or 35a-20A, as applicable.

Appendix D (111521)

Sec. 13-8. —Objections to Interrogatories

(a) The party objecting to any interrogatory shall: (1) set forth each interrogatory; (2) specifically state the reasons for the objection; and (3) state whether any responsive information is being withheld on the basis of the stated objection. Objections shall be governed by the provisions of Sections 13-2 through 13-5, signed by the attorney or self-represented party making them, and filed with the court pursuant to Section 13-7. No objection may be filed with respect to interrogatories which 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 for use in connection with Section 13-6.

(b) To the extent a party withholds responsive information based on an assertion of a claim of privilege or work product protection, the party must file an objection in compliance with the provisions of subsection (a) of this section and comply with the provisions set forth in subsection (d) of Section 13-3.

(c) No objections to interrogatories shall be placed on the short calendar list until an affidavit by either counsel is filed certifying that bona fide attempts have been made to resolve the differences concerning the subject matter of the objection and that counsel have been unable to reach an agreement. The affidavit shall set forth the date of the objection, the name of the party who filed the objection and the name of the party to whom the objection was addressed. The affidavit shall also recite the date, time and place of any conference held to resolve the differences and the names of all persons participating therein or, if no conference has been held, the reasons for the failure to hold such a conference. If any objection to an interrogatory is overruled, the objecting party shall answer the interrogatory, and serve the answer within twenty days after the judicial authority ruling unless otherwise ordered by the judicial authority.

(d) An interrogatory otherwise proper is not objectionable merely because it involves more than one fact or relates to the application of law to facts.

COMMENTARY: The change in subsection (a) adds the standard interrogatory forms for medical malpractice, Forms 218, 220 and 224, to the list of standard interrogatories to which objections may not be filed.

Sec. 13-10. —Responses to Requests for Production; Objections

(a) The party to whom the request is directed or such party's attorney shall serve a written response, which may be in electronic format, within sixty days after the date of certification of service, in accordance with Sections 10-12 through 10-17, of the request or, if applicable, the notice of requests for production on the responding party or within such shorter or longer time as the judicial authority may allow, unless:

(1) Counsel and/or self-represented parties file with the court a written stipulation extending the time within which responses may be served; or

(2) Upon motion, the court allows a longer time; or

(3) Objections to the requests for production and the reasons therefor are filed and served within the sixty day period.

(b) All responses: (1) shall repeat immediately before the response the request for production being responded to; and (2) shall state with respect to each item or category that inspection and related activities will be permitted as requested, unless the request or any part thereof is objected to.

(c) Where a request calling for submission of copies of documents is not objected to, the party responding to the request shall produce those copies with the response served upon all parties.

(d) Objection by a party to certain parts of a request shall not relieve that party of the obligation to respond to those portions to which that party has not objected within the sixty day period.

(e) A party objecting to one or more of the requests for production shall file an objection in accordance with subsection (f) of this section.

(f) A party who objects to any request or portion of a request shall: (1) set forth the request objected to; (2) specifically state the reasons for the objection; and (3) state whether any responsive materials are being withheld on the basis of the stated objection. Objections shall be governed by the provisions of Sections 13-2 through 13-5, signed by the attorney or self-represented party making them and filed with the court.

(g) To the extent a party withholds any responsive material based on an assertion of a claim of privilege or work product protection, the party must file an objection in compliance with the provisions of subsection (f) of this section and comply with the provisions set forth in subsection (d) of Section 13-3.

(h) No objection may be filed with respect to 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 for use in connection with Section 13-9.

(i) No objection to any request for production shall be placed on the short calendar list until an affidavit by counsel or self-represented parties is filed certifying that they have made good faith attempts to resolve the objection and that counsel and/or self-represented parties have been unable to reach an agreement. The affidavit shall set forth: (1) the date of the objection; (2) the name of the party who filed the objection and to whom the objection was addressed; (3) the date, time and place of any conference held to resolve the differences; and (4) the names of all conference participants. If no conference has been held, the affidavit shall also set forth the reasons for the failure to hold such a conference.

(j) If an objection to any part of a request for production is overruled, the objecting party shall comply with the request at a time set by the judicial authority.

(k) The party serving the request or the notice of request for production may move for an order under Section 13-14 with respect to any failure to respond by the party to whom the request or notice is addressed.

COMMENTARY: The change in subsection (h) adds the standard requests for production forms for medical malpractice, Forms 219, 222 and 223, to the list of standard requests for production to which objections may not be filed.

Appendix E (111521)

Sec. 43-39. Speedy Trial; Time Limitations

(a) Except as otherwise provided herein and in Section 43-40 or 43-40A, the trial of a defendant charged with a criminal offense during the period from July 1, 1983, through June 30, 1985, inclusive, shall commence within eighteen months from the filing of the information or from the date of the arrest, whichever is later.

(b) The trial of such defendant shall commence within twelve months from the filing of the information or from the date of the arrest, whichever is later, if the following conditions are met:

(1) the defendant has been continuously incarcerated in a correctional institution of this state pending trial for such offense; and

(2) the defendant is not subject to the provisions of General Statutes § 54-82c.

(c) Except as otherwise provided herein and in Section 43-40 or 43-40A, the trial of a defendant charged with a criminal offense on or after July 1, 1985, shall commence within twelve months from the filing of the information or from the date of the arrest, whichever is later.

(d) The trial of such defendant shall commence within eight months from the filing of the information or from the date of the arrest, whichever is later, if the following conditions are met:

(1) the defendant has been continuously incarcerated in a correctional institution of this state pending trial for such offense; and

(2) the defendant is not subject to the provisions of General Statutes § 54-82c.

(e) If an information which was dismissed by the trial court is reinstated following an appeal, the time for trial set forth in subsections (a), (b) and (c) shall commence running from the date of release of the final appellate decision thereon.

(f) If the defendant is to be tried following a mistrial, an order for a new trial, an appeal or collateral attack, the time for trial set forth in subsections (a), (b) and (c) shall commence running from the date the order occasioning the retrial becomes final.

COMMENTARY: The changes to this section are consistent with the adoption of Sec. 43-40A, effective January 1, 2022, regarding the included time in the speedy trial calculation.

Sec. 43-41. —Motion for Speedy Trial; Dismissal

If the defendant is not brought to trial within the applicable time limit set forth in Sections 43-39 [and] through 43-40A, and, absent good cause shown, a trial is not commenced within thirty days of the filing of a motion for speedy trial by the defendant at any time after such time limit has passed, the information shall be dismissed with prejudice, on motion of the defendant filed after the expiration of such thirty day period. For the purpose of this section, good cause consists of any one of the reasons for delay set forth in Section 43-40 or 43-40A. When good cause for delay exists, the trial shall commence as soon as is reasonably possible. Failure of the defendant to file a motion to dismiss prior to the commencement of trial shall constitute a waiver of the right to dismissal und

COMMENTARY: The changes to this section are consistent with the adoption of Sec. 43-40A, effective January 1, 2022, regarding the included time in the speedy trial calculation.