

Minutes of the Meeting
Rules Committee
November 19, 2018

On Monday, November 19, 2018, the Rules Committee met in the Supreme Court courtroom from 2:02 p.m. to 3:33 p.m.

Members in attendance were:

- HON. ANDREW J. McDONALD, CHAIR
- HON. BARBARA N. BELLIS
- HON. MELANIE L. CRADLE
- HON. KEVIN G. DUBAY
- HON. DONNA NELSON HELLER
- HON. SHEILA A. OZALIS
- HON. DAVID M. SHERIDAN
- HON. BARRY K. STEVENS

Also in attendance were Joseph J. Del Ciampo, Counsel to the Rules Committee, and Attorney Lori A. Petruzzelli of the Judicial Branch's Legal Services Unit. Judge Joan K. Alexander was not present. Judge Donna Nelson Heller joined the meeting after the approval of the minutes.

1. The Committee approved the minutes of the meeting held on October 15, 2018.
2. The Committee considered a proposal by Judge John M. Newson concerning withdrawal of an appearance under Section 3-9.

After discussion, the Committee unanimously voted to submit to public hearing the proposed revisions to Section 3-9 (e), as set forth in Appendix A, attached to these minutes.

3. The Committee considered comments by Hon. Michael A. Albis, Chief Administrative Judge, Family Division, on a proposal by Ms. Maureen M. Martowska to amend Section 25-60.

After discussion, the Committee tabled the matter to refer additional materials submitted by Ms. Martowska, Steven Miller, M.D., and Hector Morera to Judge Albis for comment.

4. The Committee considered a proposal by Attorney Deborah Gottschalk to amend the Client Security Fund Fee rules to add "individuals with disabilities" to the category of individuals who qualify for a total exemption from the fee.

After discussion, the Committee tabled the matter to the next meeting to refer it to the Client Security Fund Committee, with direction that it respond to the referral in three weeks with comments.

5. The Committee considered a report by the American Bar Association on recent amendments to Rules 7.1 to 7.5 of the ABA Model Rules of Professional Conduct.

After discussion, Justice McDonald appointed a working group, chaired by Judge Sheridan, to study the matter. The Committee thereafter tabled the matter for the working group to refer it to the Connecticut Bar Association, Statewide Bar Counsel, Statewide Grievance Committee, and the Connecticut Trial Lawyers Association for comments. Judge Sheridan will provide the Committee with a status report and timeline at the next meeting.

6. The Committee considered a proposal by the Connecticut Bar Examining Committee (CBEC) to amend Article III-3 of the CBEC Regulations in response to a proposal by Mr. Robert Berriault to allow for a waiver of fees for certain applicants to the bar.

Hon. C. Ian MacLachlan (Ret.), and Jessica F. Kallipolites, Administrative Director of the Connecticut Bar Examining Committee were present and addressed the Committee.

After discussion, the Committee tabled the matter to the next meeting to allow the Connecticut Bar Examining Committee to discuss and address the issues raised by the Committee. Justice McDonald, Retired Justice MacLachlan, Retired Judge Anne Dranginis, Chair of the Connecticut Bar Examining Committee, and Counsel will discuss issues raised by

the Committee concerning fee waivers for indigency and report to the Committee at the next meeting.

7, The Committee considered a joint proposal by the Statewide Grievance Committee and the Office of the Chief Disciplinary Counsel to amend various provisions of Chapter 2 of the Practice Book.

Attorney Michael P. Bowler, Statewide Bar Counsel, was present and addressed the Committee.

After discussion, the Committee tabled the matter to refer it to the Connecticut Bar Association's Standing Committee on Professional Ethics and its committee/section concerned with the disciplinary process, the Connecticut Defense Lawyers Association, the Connecticut Trial Lawyers Association, and the Administrative Judges for comment.

8. The Committee considered a proposal by Judge Stevens to include Medicare questions in standard discovery.

After discussion, the matter was tabled for further development of a rule and standard interrogatories by Judge Stevens and Judge Bellis and for a referral of those to Judge James W. Abrams, Chief Administrative Judge, Civil Matters. The Committee directed Counsel to confer with Judge Bellis, Judge Stevens and Judge Abrams on the matter.

Respectfully submitted,

Joseph J. Del Ciampo
Counsel to the Rules Committee

Appendix A (111918)

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, family with service needs supervision, or any commitment to the commissioner of the department of children and families or protective supervision. An attorney appointed by the chief public defender to represent a parent in a pending neglect or uncared for proceeding shall continue to represent the parent for any subsequent petition to terminate parental rights if the attorney remains under contract to the office of the chief public defender to represent parties in child protection matters, the parent appears at the first hearing on the termination petition and

qualifies for appointed counsel, unless the attorney files a motion to withdraw pursuant to Section 3-10 that is granted by the judicial authority or the parent requests a new attorney. The attorney shall represent the client in connection with appeals, subject to Section 35a-20, and with motions for review of permanency plans, revocations or postjudgment motions and shall have access to any documents filed in court. The attorney for the child shall continue to represent the child in all proceedings relating to the child, including termination of parental rights and during the period until final adoption following termination of parental rights.

COMMENTARY: The change to the section is intended to clarify that except as otherwise provided in subsections (a), (b), (c) and (d), no attorney shall withdraw his or her appearance in any civil, criminal, family, juvenile or other matter without the court's permission. For example, where a criminal defendant fails to appear after an appearance has been entered, the appearance shall not be withdrawn by the attorney without permission of the court.