

Subject: RE: proposed change to PB sec 3-8(b)

From: Jeff Gentes [<mailto:jgentes@ctfairhousing.org>]
Sent: Tuesday, January 5, 2021 10:53 AM
To: Del Ciampo, Joseph <Joseph.DelCiampo@jud.ct.gov>
Subject: proposed change to PB sec 3-8(b)

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Attorney Del Ciampo,

Attached please find a proposed change to Practice Book section 3-8(b) and a cover letter regarding the same. As the letter explains, the proposal relates to something first raised in November 2017.

Thanks,
Jeff

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By Electronic Mail via Joseph.DelCiampo@jud.ct.gov

January 5, 2021

Rules Committee of the Superior Court
P.O. Box 150474
Hartford, CT 06115-0474

Re: Proposal to Revise Practice Book Rule 3-8(b)

Dear Members of the Committee:

I write in my capacity as a managing attorney at the Connecticut Fair Housing Center. I respectfully request that the Committee revisit a proposal from 2017 to make minor revisions to the limited scope appearance practice rules.

We and the Housing Clinic of Jerome N. Frank Legal Services Organization at Yale Law School are the only nonprofits who represent homeowners facing foreclosure statewide. To a large extent, we both do so by relying on Practice Book rules regarding limited scope appearances. These appearances help us represent scores more homeowners each year than we otherwise would. And they help us represent homeowners when they are most in need of counsel: at court hearings, particularly short calendar judgment hearings (pandemic aside).

One of our most common forms of representation through limited scope appearances is defending a motion for a judgment of foreclosure. Following our appearance, a judge may mark the motion off and refer the parties to the Foreclosure Mediation Program. This result means that the homeowner is much more likely to reach a resolution through the Branch's highly successful Program, and never face a short calendar hearing again.

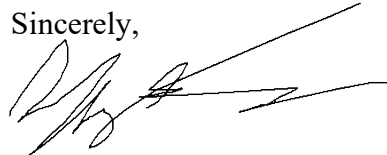
Yet if Rule 3-8(b) is read literally as currently written, marking the matter off may not complete the limited scope representation. If the motion for judgment is reclaimed—whether as a result of failed attempts at mediation, and whether months or even years later—we are required to resume the limited scope representation at a hearing after mediation efforts have failed and much has changed about the case. This potentially indefinite representation creates logistical hurdles for attempts to expand our client representation efforts. It also presents difficulties for Housing Clinic students who are unavailable to return to court when a motion for judgment is reclaimed months or years later.

To resolve this issue, we propose that a limited appearance to argue a motion at short calendar could end after no earlier than 30 days if the motion has not been submitted, reclaimed, or continued to a specific date, after notice and an opportunity to object are provided to the client.

Back in Fall 2017, the Committee solicited the various heads of clinical programs at the state's law schools to comment on a similar proposal from the Housing Clinic. The proposed amendment that accompanies this letter reflects discussions I had with the Yale's deputy dean. It includes a technical change to the 30-day period and the notice and opportunity to object referenced above. I am not aware of any other responses the Committee may have received from the University of Connecticut or Quinnipiac.

I appreciate your consideration of this amended and improved proposal and urge its adoption. Should you have any questions, please do not hesitate to contact me at 860-263-0741 or jgentes@ctfairhousing.org.

Sincerely,



Jeffrey Gentes
Managing Attorney, Fair Lending and Foreclosure Prevention

Attachment: Proposed Change to Practice Book Rule 3-8(b)

PROPOSED CHANGE TO PRACTICE BOOK RULE 3-8(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. A limited appearance to argue one or more motions at short calendar may be deemed completed, following the submission of the appropriate certificate pursuant to section 3-9(c), at least 30 days after the short calendar on which the motion(s) appeared if the motions have not been submitted, reclaimed, or continued to a specific later date, unless the court orders otherwise or the limited-scope attorney and client agree otherwise; provided that if the limited appearance is to argue a motion filed by the client and the motion has not been submitted to the court, the attorney must notify the client that the attorney does not intend to reclaim the motion, and the client may file a written objection with the court within 10 days after written notice has been given or mailed to the client. 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.