

Del Ciampo, Joseph

To: Rules Committee
Subject: FW: Hybrid Representation Proposal
Attachments: Proposed new Section 25-6A re dual appearances rev 1-7-2020 (jjd).docx; Proposed new Section 3-8A re dual appearances 1-6-2020.docx

Dear Judges,

At its meeting on December 16, 2019, the Rules Committee considered a proposal from Judge Adelman to amend Section 3-8 regarding hybrid appearances and a related proposal from Judge Albis' working group to create a new section regarding hybrid appearances in family cases.

Judge Bellis and Judge Heller summarized the subcommittee's review of this proposal, and reported that changes were being made to the e-filing system to address the ability of parties represented by attorneys in family matters to view their cases electronically.

After discussion, the Committee tabled this proposal until the January meeting to request that Judge Abrams canvass the civil judges on this issue and to allow time for Judge Abrams to report on their responses and to allow the Connecticut Bar Association time to provide their comments on this proposal. The Committee instructed Counsel to draft a revised proposal that would apply to both civil and family cases. I have drafted a revised proposal to apply to both civil and family cases as requested and have attached that draft to this email (proposed New Section 3-8A).

Subsequent to having prepared the revised draft to apply to both civil and family cases, Judge Abrams reported to me that there "appears to be little to no interest among the civil judges in having the proposal apply to civil cases." So, I have re-drafted the proposal to apply, again, only to family matters. That draft is also attached (proposed New Section 25-6A). Please note that the revised draft makes various technical revisions to the original proposal, i.e., substituted "party with dual representation" for "dually represented party" for clarity so as not to be misheard and interpreted as "duly represented party"; removed the qualifier "general" when referring to appearance so as not to exclude from the new rule situations in which a limited appearance has been filed by an attorney.

Thank you.

Joseph J. Del Ciampo, Esq.

Director of Legal Services
Connecticut Judicial Branch
100 Washington Street, 3rd Floor
Hartford, CT 06106

e-mail: Joseph.DelCiampo@jud.ct.gov

Tel: (860) 706-5120

Fax: (860) 566-3449

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(New) Section 25-6A. Self-representation appearance in addition to appearance by of attorney.

- (a) A party may file ~~or maintain~~ an appearance ~~on the party's own behalf~~ for himself or herself in addition to as a self-represented party without prior approval of the court even though there is an general appearance by of an one or more attorneys on file for that party, ~~without prior approval of the court~~. For purposes of this section, a ~~"dually represented party"~~ "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 ~~dually represented party~~ with dual representation must be signed by an attorney of record for the party. If a ~~dually represented party~~ with dual representation files a motion that is not signed by an attorney of record, the court may in its discretion order that proceedings on the motion be stayed until an attorney of record adopts said motion as if it were signed by ~~said~~ 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 ~~dually represented 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 ~~dually represented 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.
- (c) Unless and until a motion filed by a ~~dually represented party~~ with dual representation without the signature of the party's attorney, is adopted by the attorney, disposed of, or withdrawn:
- (1) The ~~dually represented 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 ~~dually represented party~~ with dual representation, but only with respect to the subject matter of the motion.
- (d) If two motions of a ~~dually represented 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.
- (e) If a ~~dually represented 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 ~~allow~~ clarify the procedures to be followed when parties in family matters to file appearances on their own behalf even though they may also have, or intend to have, an attorney who has filed an general appearance. The rule recognizes that filing a self-representation appearance may be desirable in order to ~~allow the party to have direct access to the court's electronic file of the case and~~ 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, ~~counsel~~ 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.