

2-8.

Proposal by Judge Cobb regarding whether a co-defendant is an "adverse party" for purposes of opposing another co-defendant's motion for summary judgment. (First time being considered.)

Del Ciampo, Joseph

From: McDonald, Andrew <Andrew.McDonald@connapp.jud.ct.gov>
Sent: Friday, September 14, 2018 10:19 AM
To: Cobb, Susan
Cc: Del Ciampo, Joseph
Subject: RE: Possible Rules Committee issue

Sue –
I'm finally clearing out all the emails I received while I was away in August, and wanted to acknowledge receiving yours. I'm copying Joe Del Ciampo, counsel to the Rules Committee, on this so he can begin to track/manage this request. I don't think we need a copy of your decision just yet, but will let you know if that changes. Many thanks for sending on this proposal.

Andrew

From: Cobb, Susan [<mailto:Susan.Cobb@jud.ct.gov>]
Sent: Wednesday, August 08, 2018 2:38 PM
To: McDonald, Andrew
Subject: Possible Rules Committee issue

Hello Andrew,

I hope you are well and you are having a good summer. I have a rules committee issue for you.

In deciding a motion for summary judgement in a negligence case, an issue arose involving whether a co-defendant is an "adverse party" for purpose of opposing a co-defendant's motion for summary judgment. Turns out that this phrase is used throughout the civil rules, and is not defined. There are a few old cases saying a co-defendant is not an adverse party and then some new ones (all superior court cases) that discuss the concept in terms of whether the co-defendant has "standing." The federal rules do not use this phrase, but are split as to whether a co-defendant can oppose another defendant's motion for summary judgment.

Anyway, I thought I would raise it with you as chair. I could send you my decision which further demonstrates the issues, but I was not sure if that would be ok, since the case could be appealed. Of course, I do not expect a response now while you are on break, but wanted to send this to you while the issue was fresh in my mind.

Best,

Sue Cobb

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Hon. Susan Cobb  
Judge, Superior Court  
Connecticut Judicial Branch  
Email: [susan.cobb@jud.ct.gov](mailto:susan.cobb@jud.ct.gov)