

Del Ciampo, Joseph

From: Keller, Christine <Christine.Keller@connapp.jud.ct.gov>
Sent: Monday, July 22, 2019 4:06 PM
To: Del Ciampo, Joseph
Cc: McDonald, Andrew
Subject: Proposed Revisions to Practice Book Rules 16-4 (a) and 42-5

I had advised Justice McDonald in June that I believe Sections 16-4 (a) and 42-5 of the Practice Book, prohibiting the disqualification of jurors who are deaf or hard of hearing, need revision.

These two rules could be interpreted to absolutely prohibit the disqualification of any potential juror who is deaf or hard of hearing. I think the language of the rules ought to be modified because a trial court may encounter a potential juror whose hearing disability cannot be accommodated.

When I was a trial judge, I encountered deaf persons who did not know how to sign, and thus sign interpreters were ineffective. Many of us also have encountered people who refuse to use their hearing aids and do not know how to sign.

Accordingly, in light of the above observations, the rules stating that no person shall be disqualified on the basis of deafness or being hard of hearing should be modified. I suggest that both rules should state "except that no person shall be disqualified on the basis of deafness or being hard of hearing if his or her hearing disability can be reasonably accommodated such that his or her capacity to serve as a juror will not be impaired." (proposed change underlined).

Thank you for your consideration.

Judge Keller

Nothing in this section shall affect the inherent authority of the court to manage its docket.

COMMENTARY: The revisions to this section conform it to the provisions of No. 17-202 of the 2017 Public Acts.

(NEW) Sec. 13-12A. Disclosure of Medicare Enrollment, Eligibility and Payments Received

In any civil action involving allegations of personal injury, information on the claimant's Medicare enrollment status, eligibility or payments received, which is sufficient to allow providers of liability insurance, including self-insurance, no fault insurance, and/or workers' compensation insurance to comply with Medicare Secondary Payer obligations, including those imposed under 42 U.S.C. § 1395y (b) (2) and (8), shall be subject to discovery by any party by interrogatory as provided in Sections 13-6 through 13-8. The interrogatories shall be limited to those set forth in Form 217. The information disclosed pursuant to this section shall not be admissible at trial solely by reason of such disclosure. Such information shall be used only for purposes of the litigation and for complying with 42 U.S.C. § 1395y (b) (8) and shall not be used or disclosed for any other purpose.

COMMENTARY: This new section requires disclosure of Medicare enrollment, eligibility and payments received in any civil action involving allegations of personal injury.

✓ **Sec. 16-4.* Disqualification of Jurors and Selection of Panel**

(a) A person shall be disqualified to serve as a juror if such person is found by the judicial authority to exhibit any quality which will impair this person's capacity to serve as a juror, except that no person shall

be disqualified on the basis of deafness or being hard of hearing [impairment].

(b) The clerks shall keep a list of all persons disqualified under this section and shall send a copy of that list to the jury administrator at such time as the jury administrator may direct.

(c) The clerk of the court, in impaneling the jury for the trial of each cause, shall, when more jurors are in attendance than are required of the panel, designate by lot those who shall compose the panel.

COMMENTARY: The changes to this section conform it to the provisions of No. 17-202 of the 2017 Public Acts. **Changes noted Effective 1-1-2020*

Sec. 16-8. Oath and Admonitions to Trial Jurors

(a) The judicial authority shall cause the jurors selected for the trial to be sworn or affirmed in accordance with General Statutes §§ 1-23 and 1-25. The judicial authority shall admonish the jurors not to read, listen to or view news reports of the case or to discuss with each other or with any person not a member of the jury the cause under consideration, except that after the case has been submitted to the jury for deliberation the jurors shall discuss it among themselves in the jury room.

(b) In the presence of the jury, the judicial authority shall instruct any interpreter for a [deaf or hearing impaired] juror who is deaf or hard of hearing to refrain from participating in any manner in the deliberations of the jury and to refrain from having any communications, oral or visual, with any member of the jury except for the literal translation of jurors' remarks made during deliberations.

COMMENTARY: The changes to this section conform it to the provisions of No. 17-202 of the 2017 Public Acts.

COMMENTARY: The change to this section will allow for 10 percent cash bail to be automatically available for surety bonds under \$20,000, both at court and at the police department.

✓ **Sec. 42-5.* –Disqualification of Jurors and Selection of Panel**

A person shall be disqualified to serve as a juror if such person is found by the judicial authority to exhibit any quality which will impair that person's capacity to serve as a juror, except that no person shall be disqualified on the basis of deafness or being hard of hearing [impairment]. The clerk shall keep a list of all persons disqualified under this section and shall send a copy of that list to the jury administrator at such time as the jury administrator may direct. The clerk of the court, in impaneling the jury for the trial of each cause, shall, when more jurors are in attendance than are required for the panel, designate by lot those who shall compose the panel.

COMMENTARY: The changes to this section conform it to the provisions of No. 17-202 of the 2017 Public Acts. *changes noted * effective 1-1-2020*

**Sec. 42-10. Selection of Jury; [Deaf or Hearing Impaired] Jurors
Who Are Deaf or Hard of Hearing**

At the request of a [deaf or hearing impaired] juror who is deaf or hard of hearing or at the request of the judicial authority, an interpreter or interpreters provided by the [Commission on the Deaf and Hearing Impaired] Judicial Branch and qualified under General Statutes § 46a-33a shall assist such juror during the juror orientation program and all subsequent proceedings, and when the jury assembles for deliberation.