

**Practice Book Advisory Committee
Subcommittee I**

Meeting Minutes
Tuesday, April 3, 2012
3:00 p.m.

Office of the Probate Court Administrator
186 Newington Road
West Hartford, CT 06110

Judge Steven Zelman, Chair of Subcommittee I, convened the meeting at 3:15 p.m.

Other members in attendance: Attorney Molly Ackerly, Attorney Bonnie Bennet, Attorney Douglas Brown, Attorney Karen Gano, Attorney Paul Hudon, Attorney Greta Solomon, Judge Beverly Streit-Kefalas, and Ms. Sondra Waterman.

Also in attendance: Attorney David Biklen, Reporter

Minutes of the March 6, 2012 meeting

The minutes of the March 6, 2012 meeting were unanimously approved.

Discussion of Draft Rules:

Attorney Bennet reported that since the March 6, 2012 meeting of the subcommittee, there have been a number of meetings eliciting feedback on the committee's work. The Probate Practice Book Advisory Committee met on March 15, 2012 and provided feedback on draft rules 1 through 7. Judges met on March 20, 2012 and court staff met on March 21 and provided input on the full range of draft concepts for probate practice book rules. It was decided to address their comments and suggestions as we proceed to review the draft rules.

Rule 8 Notice

Section 8.5 Streamline procedures; notice to request hearing. The committee discussed the rules concerning when a hearing may be held in a decedent's estate or trust matter. Section 8.5(b)(2) was changed from "publication notice" to "public notice" to be consistent with the statutory language of C.G.S. §45a-126. The committee also reviewed the language of Section 8.5(b)(3) which had been revised in response to concerns raised at the Judges Institute. The draft concepts provided that hearings may be scheduled in decedents' estates and trusts when attendance by a party is required due to exceptional circumstances. The concept was intended to convey that the court, in its discretion, could set a hearing when warranted by the circumstances of an individual case. The draft

rule now reads that a hearing may be scheduled if the court determines that the circumstances related to a particular application, petition or motion require the conduct of a hearing with the attendance of a party.

Section 8.6. Waiver of notice. It was suggested that the rule should require that signatures of persons waiving notice be witnessed. After a full discussion, it was agreed that cases of abuse are rare. In addition, this requirement could be burdensome and of limited value since the appeal period runs from the mailing of the decree to the parties.

Section 8.9. Failure to deliver notice. The committee was concerned that this rule only dealt with the failure to deliver notice to a known party. It was suggested that the rule be expanded to include unknown parties. After full discussion, it was suggested that C.G.S. Section 45a-128 allows for reconsideration for failure to provide notice to a party entitled to notice under law. It was recommended that a rule be added to alert parties, who were not listed on the order of notice, of this potential remedy. It was also suggested that the rule under Section 8.9(b) provide for a waiver of notice as an alternative to delaying the issuance of decree.

Section 8.11 Notice of Continuance. It was determined that, since the rule requires that a hearing be convened, it is not necessary to limit the application of the rule.

Section 8.11 Notice to member of military service. It was noted that where a respondent does not appear in Superior Court for Juvenile Matters, the petitioner must file an affidavit, JD-JM-172, stating whether or not the respondent is in the U.S. military. If there is a representation that the respondent is not in military service, the petitioner must indicate how he or she knows this to be a fact. It was suggested that a similar rule be adopted in probate court. Rule 8.11 concerns notice to a party in the U.S. military. The military affidavit should be considered further when the committee reviews Section 7.2 under filing requirements. A form change regarding military service has previously been suggested.

Rule 9. Counting Time Periods

Section 9.1(b). While a motion is not required, it was clarified that a party must file a written request to extend a time period.

Rule 10. Continuances

Section 10.1(b)(2) requires a party requesting a continuance to provide copies of the request to attorneys of record and unrepresented parties. Section 10.1(b)(3) requires that the reason for the request be stated. Section 10.1(c) provides that the requirements of 10.1(b) may be waived by the court in the interests of justice.

Section 10.2 is now titled: Court action on receipt of request for continuance of hearing. *Section 10.2(a)* reads that a hearing upon a request for a continuance or objection thereto is not required. *Section 10.3(a)* is eliminated and *10.3(b)* and *10.3(c)* are now *10.2(b)* and *10.2(c)*, respectively.

Rule 11. Service of process on court as agent for nonresident fiduciary

Section 11.1(a) The rule now provides that the *court* shall record on the process the date and hour that service was made.

Rule 12. Court-appointed attorney

Section 12.1 Court-appointed attorney: when appointed; copy of appointment

The word “when” was substituted for the word “where” in *Sections 12.1(a)* and *(b)*.

Rule 12.2 Court-appointed attorney: probate court administrator panel of attorneys. The first paragraph was clarified to read: The administrator shall maintain panel of attorneys from which the court shall appoint an attorney for an unrepresented party as required in the following matters:

Section 12.4. Court-appointed attorney: Rules of Professional Conduct. The committee debated whether to reference the Rules of Professional Conduct. It was decided to keep the reference and substitute the words “advocate for” for the word “represent”.

Section 12.5. Withdrawal of attorney appointed by the court. In response to input from the judges, the committee added a provision outlining procedures for the withdrawal of a court-appointed attorney.

Rule 13. Court-appointed guardian ad litem

Section 13.1 was re-titled: Guardian ad litem: mandatory court appointments. *Section 13.2* is now titled: Guardian ad litem: discretionary court appointments. *Section 13.1(b)* is now *13.2(a)* and *Section 13.2* is now *13.2(b)*, with the last phrase of this section reading “taking into account the legal and financial interests *at issue*”.

The committee discussed the issue raised at the Judges Institute regarding the discretionary appointment of a GAL for a person the court has reason to believe is or may be incompetent. The consensus was that the rule should specify the court’s discretion to appoint a GAL in these circumstances.

13.4 Guardian ad litem: term of appointment. The committee simplified this rule by striking the opening phrase.

13.5. Guardian ad litem: who may serve. The committee clarified the rule to include persons with legal or *other* professional training and eliminated the word “judgment”.

Section 13.6 Guardian ad litem: duties Section 13.6(3) was simplified to read: A guardian ad litem who represents a minor shall make reasonable efforts to keep each parent or guardian of the minor, who is not a party to the matter, advised of the actions of the court and guardian ad litem.

13.7 Guardian ad litem: advice and instruction from court: ex parte communications to be avoided. Section 13.7(b) was re-written to make clear that the guardian ad litem and the court shall not engage in ex parte communication. Advice and instruction from the court shall be provided at a hearing or in writing with copies to all parties and counsel of record.

13.8 Guardian ad litem: property of person represented; expenses. Section 13.8 was eliminated. Section 13.8(a) became Section 13.6(4).

Review of Drafts of Rules from prior meeting

Rule 5 Appearances

The committee reviewed a revised draft of Rule 5, Appearance.

Section 5.2 Appearance by legal representative of a party. While the committee approved of the concept for this rule, there was discussion regarding who is a legal representative and who is a party. At the end of the discussion, trustees were listed, although the phrase “on behalf a party” was eliminated. Attorneys in fact were removed from the list.

Section 5.6 Filing appearance before the court section 5.6(c) was revised to make clear that all attorneys who appear before the court must be licensed to practice law in Connecticut or meet the requirements of section 5.4 (pro hac vice).

Section 5.9 Withdrawal of attorney In response to concerns raised at the Judges Institute, the committee added a reference to Section 1.16 of the Rules of Professional Conduct in this rule.

Next meeting

Our next meeting will be held on Tuesday, May 8, 2012 at 3:00 p.m. at the Office of the Probate Court Administrator, 186 Newington Road, West Hartford, CT.

The meeting was adjourned at 6:10 p.m.

Approved May 8, 2012

Draft rules as amended at the April 3, 2012 meeting are attached.

State of Connecticut
Probate Practice Book

Rule 8 Notice

Sec. 8.1 Notice of hearing and ruling of probate court. Unless otherwise provided by law or these rules, the court shall give notice of each hearing or right to request a hearing, and a copy of each decision, order, decree, denial and other ruling of the court to each person and entity listed on the order of notice.

(C.G.S. sections 45a-124, 45a-127 and 51-53)

Sec. 8.2 Contents of notice of hearing or right to request hearing. A notice of hearing or right to request a hearing shall include:

- (1) a description of the matter to be heard; and
- (2) except in the discretion of the court for cause shown, a list of the names and addresses of parties, attorneys, and others listed on the order of notice to whom notice is sent.

Sec. 8.3 How notice given.

(a) Except as otherwise provide by law, notice of hearing or right to request a hearing shall be given by regular United States mail, means authorized by the probate court administrator, or other means determined by the court. Notice by United States mail is complete on mailing.

(b) Unless otherwise required by statute or order of the court, notice of hearing shall be given not later than seven days before the date of the hearing.

(c) Notice of a right to request a hearing shall be given not later than 10 days before the deadline to request a hearing.

(d) The court shall certify on the record the date and manner in which the notice was given.

(C.G.S. section 45a-125)

Sec. 8.4 To whom notice is given.

(a) The court shall give notice under section 8.1 to:

(1) each party designated by statute or these rules;

(2) each attorney of record; and

(3) if the court is aware that a party has a court-appointed legal representative, to the representative.

(b) The court may give notice under this section to any person or entity that:

(1) requests notice in writing provided under C.G.S. section 45a-127; or

(2) the court considers to have sufficient interest in the proceedings and is not otherwise prohibited by law.

(c) While a matter is pending before the court, a fiduciary or, if none is appointed, the petitioner must use reasonable efforts to keep the court informed of a change in address of each party.

(d) A party must inform the fiduciary and the court of each change in address of the party.

(C.G.S. section 45a-127)

Sec. 8.5 Streamline procedure; Notice of right to request hearing.

(a) Except as provided in section 8.5(b) and section 8.5(c), in lieu of a notice of hearing under section 8.1, the court shall streamline the notice procedure by giving notice of the right to request a hearing in the following matters, provided that the matter does not appear to be contested or to require testimony or legal argument:

- (1) decedent's estates; and
- (2) trusts.

(b) The court may schedule a hearing rather than using the streamline notice procedure for proceedings specified in section 8.5(a) if:

- (1) a hearing with attendance by one or more parties is required by statute;
- (2) the court determines that public notice is required to protect the interests of a party; or
- (3) the court determines that the circumstances related to a particular application, petition or motion require the conduct of a hearing with attendance by a party.

(c) The court may not use the streamline notice procedures for a matter involving equity or equitable deviation.

(d) In lieu of a notice of hearing under section 8.1, the court may give notice of the right to request a hearing in the following matters, provided that the matter does not appear to be contested or to require testimony or legal argument:

- (1) accounts for guardians of the estate;
- (2) proceedings for the modification of visitation orders;
- (3) requests to transfer probate files between probate courts under C.G.S. sections 45a-599 and 45a-677(h);
- (4) motions to transfer contested children's matters to the superior court under C.G.S. sections 45a-623 and 45a-715(g); or [Scribe's note: new recommendation from Subcommittee III]

(5) other matters recommended by Subcommittee III.

(e) A notice of a right to request a hearing must include a statement that:

(1) the party is entitled to a hearing before the court;

(2) the party may request a hearing, which request must be received by the court in writing not later than the date specified in the notice; and

(3) if a written request for a hearing is not received by the date specified in the notice, the court may approve the application, motion, or petition without a scheduled hearing.

(f) If a written request for a hearing is received by the court, the court shall set a time and place for hearing and give notice of the hearing required by statute and these rules.

(g) If a timely request for a hearing is not received by the court, the court may issue a decree approving the application, motion, or petition or schedule a hearing on the matter.

Sec. 8.6 Waiver of notice.

(a) Any party may waive the party's right to notice of hearing or notice of right to request a hearing by filing in court a written waiver signed by the party.

(b) A legal representative or fiduciary identified in section 5.2 may waive the right of the represented party to notice of hearing or right to request a hearing by filing a written waiver of notice in court signed by the representative or fiduciary.

Sec. 8.7 Public notice. If public notice is required in a matter pending before the court, the court shall give notice by publication in a newspaper having a circulation in the district in which the court is held or by other means authorized by statute.

(C.G.S. section 45a-126)

Sec. 8.8 Notice to attorney general. If a matter before the court may affect a charitable interest or beneficiary, the court shall give notice to the Connecticut attorney general.

(C.G.S. section 3-125)

Sec. 8.9 Undelivered notice.

(a) If, before the hearing, a notice to a person is returned as undelivered, the court shall order such further notice as would be most likely to reach the person. If additional notice would be futile, the court may take such action that it considers appropriate including notice by publication or appointment of a guardian ad litem for the person or dispensing with notice.

(b) If, after the hearing but before a decree, ruling, or order is issued, the court is notified of an address of a party whose notice was returned as undeliverable, the court may delay issuance of the decree for a reasonable period to allow the party who did not receive proper notice to request another hearing or waive notice of hearing. Notice of a delay in issuance of the decree, including the period and reasons for the delay, shall be given to each party.

(c) If, after a decree in a matter is issued, the court is notified of an address of a party whose notice was returned as undeliverable, the court shall send a copy of the decree to the party and a notice that the party may wish to consult an attorney regarding rights the party may have in the matter.

(d) Except for notice in a conservatorship proceeding under C.G.S. section 45a-650, if a party appears at a hearing for which the party did not receive proper notice, notice is deemed to have been given, unless the party objects at the hearing.

Sec. 8.10 Failure to give notice to party legally entitled to notice. A party may request reconsideration of an order or decree other than a decree authorizing the sale of

real estate for failure to give legal notice to a party entitled to notice under law under C.G.S section 45a-128.

(C.G.S. section 45a-128)

Sec. 8.11 Notice of continuance. The court may adjourn a hearing, for which notice was given under section 8.3 and convened, to another date and time without further written notice to the parties.

Sec. 8.12 Notice to member of military service.

(a) If a petitioner indicates that a party is in active military service of the United States in accordance with section 7.2 or the court determines that a party in a matter identified in section 7.2 is in active military service, the party shall file a special appearance in the matter that includes an address where notice can be sent or indicate that there is no good address where the party can receive notice owing to the military service.

(b) If the party in the active military service of the United States does not file a special appearance under section 8.12(a) or if the court knows of no address where notice to the party is assured, the court shall appoint an attorney for the party and send notice of that fact to the party and the attorney.

(c) If a party is in the active military service of the United States, an application, petition, or motion filed with the court in the matters identified in section 7.2(d), and the party has not made a special appearance, the court shall not render a final decision in the matter unless an appearance has been filed in accordance with section 8.12(a) or an attorney has been appointed to represent the servicemember in accordance with section 8.12(b).

(Servicemembers Civil Relief Act (SCRA) 50 USC App 521.)

Sec. 8.13 When notice given of ruling of probate court.

(a) Unless a different time is provided by statute or ordered by the court, the court shall give notice of each decision, order, decree, denial or other ruling of the court by mailing the ruling by regular United States mail not later than 10 days after the date of the ruling.

(b) The court shall certify on the decision, order, decree, denial or other ruling of the court or on a separate form attached to the ruling the date the ruling was mailed to the parties, counsel of record, and others listed on the order of notice of the hearing.

Rule 9 Counting Time Periods

Sec. 9.1 Counting time periods.

(a) Except as otherwise provided by statute, in computing a period of time prescribed or allowed by these rules, order of the court, or law, the day of the act, event, or default with reference to which the period runs shall not be included.

(b) Except as otherwise provided by statute, the court may order an extension of a period of time, with or without motion or notice, on a written request made by a party before expiration of the period originally prescribed or extended.

Rule 10 Continuances

Sec. 10.1 Request for continuance of hearing.

(a) A party may request the court to continue a hearing.

(b) A party making a request for continuance shall:

(1) make the request in writing;

(2) provide copies of the request to attorneys of record and unrepresented parties;

(3) state the reason for the request;

(4) indicate in the request whether the parties have agreed to the request for continuance; and

(5) submit the request as far in advance as possible of the scheduled hearing for which the continuance is sought;

(c) In the interests of justice, the court may waive the requirement of section 10.1(b).

Sec. 10.2 Court action on receipt of request for continuance of hearing.

(a) A hearing on a request for continuance or objection to the request is not required.

(b) The court may grant a request for continuance of hearing or deny the request and proceed with the hearing.

(c) Except as otherwise provided by statute, the court may continue a hearing to perfect notice of a hearing.

Sec. 10.3 Assessment of costs if hearing continued.

(a) If a request for a continuance is granted, the court may assess costs against the requesting party under C.G.S. sections 45a-106(9), 45a-107(j) or 45a-108(d).

(b) If the court continues a hearing owing to the failure of party or counsel for a party to attend a hearing for which notice has been given, the court may assess costs against the party or counsel under C.G.S. sections 45a-106(8), 45a-107(j) or 45a-108(d).

(C.G.S. sections 45a-106(8), 45a- 107(j) or 45a-108(d).)

Rule 11 Service of process on court as agent for nonresident fiduciary

Sec. 11.1 Service of process on court as agent for nonresident fiduciary.

(a) If service of process is made on the court as agent for service of process for a nonresident fiduciary, the court shall record on the process the date and hour that service was made.

(b) Not later than two business days after service of process is made on the court as agent for service of process for a nonresident fiduciary, the court shall send the original process to the nonresident fiduciary by certified mail and to each attorney of record for the fiduciary by regular mail or as the court may direct.

(c) The court shall retain in the court file a copy of the process that includes the date and hour of service.

(C.G.S. sections 52-60 and 52-61)

Rule 12 Court-appointed attorney

Sec 12.1 Court-appointed attorney: when appointed; copy of appointment.

(a) The court shall appoint an attorney to represent a party when appointment is required by law.

(b) The court may appoint an attorney to represent a party when appointment is permitted by law and the court determines that the appointment is necessary to protect the interests of the party.

(c) The court shall send a copy of the appointment to each party and counsel of record.

Sec. 12.2 Court-appointed attorney: probate court administrator panel of attorneys where appointment from panel required by statute. The administrator shall maintain a panel of attorneys from which the court shall appoint an attorney for an unrepresented party as required in the following matters:

(1) Commitment of children with mental illness, C.G.S. section 17a-76.

(2) Involuntary placement with department of developmental services, C.G.S. section 17a-274.

(3) Commitment of adult with mental illness, C.G.S. section 17a-498.

(4) Special limited conservator, C.G.S. section 17a-543a.

(5) Commitment for alcohol and drug dependency, C.G.S. section 17a-685.

(6) Orders of quarantine or isolation, C.G.S. sections 19a-131b and 19a-221.

(7) Commitment for tuberculosis, C.G.S. section 19a-265(h).

(8) Involuntary conservatorship, C.G.S. section 45a-649a.

(9) Sterilization, C.G.S. section 45a-694.

(10) Any other statute that requires appointment of an attorney from the panel.

(See Probate Court Regulations section 13)

Sec. 12.3 Court-appointed attorney: panel of attorneys maintained by probate court; when appointment is made.

(a) The court shall maintain a panel of attorneys from which the court shall make an appointment of an attorney in any matter in which appointment from the administrator's panel is not required under law or section 12.2.

(b) Notwithstanding section 12.3(a), the court may appoint an attorney from the administrator's panel for any matter under this section.

(See Probate Court Regulations sections 13B and 13C)

Sec. 12.4 Court-appointed attorney: Rules of Professional Conduct. An attorney appointed to represent a party under Rule 12 shall advocate for the client in accordance with the rules of professional conduct.

Sec. 12.5 Withdrawal of attorney appointed by the court.

(a) Appointment of an attorney for a party shall continue for the duration of the matter or until further order of the court.

(b) The court-appointed attorney may on written request to, and approval of, the court withdraw from a matter. Withdrawal may be granted by the court without a hearing.

Rule 13 Court-appointed guardian ad litem.

Sec. 13.1 Guardian ad litem: mandatory court appointment.

(a) The court shall appoint a guardian ad litem:

(1) for a minor child in any proceeding under C.G.S. sections 45a-603 through 45a-622 or 45a-715 through 45a-719 in which an allegation of abuse or neglect of the minor is made;

(2) for a parent who is a minor or incompetent in a proceeding under C.G.S. sections 45a-603 through 45a-622 or 45a-715 through 45a-719;

(3) for a minor child and for any parent who is a minor or incompetent in any proceeding under C.G.S. section 46b-172a;

(4) for a relative in a proceeding under C.G.S. section 45a-751b or 45a-753(c) whose identity is being sought and whose whereabouts is unknown or who appears incompetent but has not been declared incompetent by a court; and

(5) under any other statute that requires appointment of a guardian ad litem.

Section 13.2 Guardian ad litem: discretionary court appointment.

(a) In any proceeding, the court may appoint, without notice, a guardian ad litem for a party or person who may have an interest in the proceeding:

(1) who is a minor;

(2) who is undetermined or unborn;

(3) whose identity or whereabouts is unknown; or

(4) who is incompetent or whom the court has reason to believe is or may be incompetent, but has not been declared incompetent by a court.

(b) The court may appoint a guardian ad litem only if required by law or these rules or if the court considers appointment necessary, taking into account the legal and financial interests at issue.

(C.G.S. section 45a-132)

Sec. 13.3 Guardian ad litem: scope of appointment. The court may limit the scope of an appointment of a guardian ad litem to a particular action or issue.

Sec. 13.4 Guardian ad litem: term of appointment. The court may terminate an appointment of a guardian ad litem at any time and without notice.

(C.G.S. section 45a-132)

Sec. 13.5 Guardian ad litem: who may serve.

(a) The court may appoint as guardian ad litem an adult whose interests do not conflict with the interests of a person to be represented.

(b) When appointing a guardian ad litem, the court shall:

(1) consider whether the interests of the person to be represented require the protection of a guardian ad litem with legal or other professional training;

(2) give preference to a parent or other family members if the person to be represented is a minor, except if the court finds a conflict of interest under section 13.6(a) or that legal or other professional training is required under section 13.6(b)(1); and

(3) attempt to match the abilities of the guardian ad litem with the needs of the person to be represented.

(C.G.S. section 45a-132(d))

Sec. 13.6 Guardian ad litem: duties. A guardian ad litem:

(1) shall advocate for the best interests of the represented person;

(2) may recommend to the court a waiver, election, modification, or compromise of the rights or interest of the person represented and may, with approval of the court, effectuate a waiver, election, modification, or compromise on behalf of the person represented;

(3) who represents a minor, shall make reasonable efforts to keep each parent and guardian of the minor, who is not a party to the matter, advised of the actions of the court and the guardian ad litem.

(4) A guardian ad litem does not have title in or custody of property of the person represented.

Sec. 13.7 Guardian ad litem: advice and instruction from court; ex parte communication to be avoided.

(a) The court may instruct the guardian ad litem and the guardian ad litem may seek instruction and advice from the court concerning the duties and scope of appointment of the guardian ad litem.

(b) A guardian ad litem and the court shall not engage in ex parte communication. Advice and instruction from the court shall be provided at a hearing or in writing with copies to all parties and counsel of record.

Sec. 13.8 Guardian ad litem: appeal from court order. A guardian ad litem may appeal from an order or decree of the court by which the person represented is aggrieved. The guardian ad litem may, subject to approval of the court, incur any necessary expenses of an appeal.

Rule 5 Appearance

Sec. 5.1 Who may appear before court.

(a) A party who is an individual may represent himself or herself without an attorney and without filing an appearance.

(b) Except as provided in sections 5.2 and 5.5, only an attorney who meets the requirements of sections 5.3 or 5.4 may appear for a party. An attorney appearing on behalf of a party shall file an appearance, unless the attorney has been appointed by the court.

(C.G.S. §51-88; State Bar v CBT, 145 Conn 222 (1958), 146 Conn 556 (1959))

Sec. 5.2 Appearance by legal representative of party.

(a) If there is no conflict of interest and an appearance is not otherwise prohibited by law, the following legal representatives or fiduciaries, except corporate fiduciaries, may appear without an attorney and without filing an appearance:

- (1) conservator for a conserved person in proceedings other than the conservatorship;
- (2) guardian of the estate for a minor in proceedings other than the guardianship of the estate;
- (3) trustee in proceedings other than the trust;
- (4) executor or administrator of an estate other than the decedent's estate;
- (5) guardian ad litem appointed by the court for the purpose for which the guardian ad litem is appointed; and
- (6) other fiduciaries that the court may direct.

(b) Nothing in this rule shall prevent a fiduciary, except a corporate fiduciary, from appearing in court without an attorney.

[**Scribe's Note:** In light of the committee's discussion, it is suggested that Section 5.2(a) be moved to section 4, Parties, inasmuch as these legal representatives are deemed to be the party and bind the person represented in the above matters. Section 5.2(b) could be included as 5.1(c) above, and Section 5.2 eliminated.]

(See C.G.S. §§ 45a-487a through 45a-487d regarding virtual representation in trust matters)

Sec. 5.3 Appearance of attorney. Except as provided in section 5.4, only an attorney licensed to practice law in Connecticut may represent a party before the court.

Sec. 5.4 Out-of-state attorney appearing pro hac vice.

(a) The court, on special and infrequent occasion and for good cause shown, may grant an attorney in good standing at the bar of another state, the District of Columbia, or Puerto Rico, permission to appear pro hac vice for a party.

(b) An attorney of this state seeking permission for an out-of-state attorney to appear pro hac vice shall file a written application with the court having jurisdiction of the matter accompanied by an affidavit of the out-of-state attorney:

(1) certifying whether the out-of-state attorney has any disciplinary matter pending against the attorney in another jurisdiction, has ever been reprimanded, suspended, placed on inactive status, disbarred, or otherwise disciplined, or has ever resigned from the practice of law and, if so, setting forth the circumstances concerning the discipline or resignation;

(2) designating the judge of the court as the agent of the out-of-state attorney for service of process;

(3) agreeing to register with the statewide grievance committee in accordance with the provisions of the Connecticut Practice Book while appearing in the matter in this state and for two years after completion of the matter and to notify the grievance committee of the expiration of the two-year period; and

(4) identifying the number of matters in which the out-of-state attorney has appeared pro hac vice in the court and superior court of this state since the attorney first appeared pro hac vice in this state.

(c) A member of the bar of this state must be present at all proceedings with the attorney appearing pro hac vice and must sign all documents filed with the court and assume full responsibility for them and for the conduct of the matter and of the attorney to whom the privilege of appearing pro hac vice has been accorded.

(d) Good cause, under section 5.4(a), for according the privilege of appearing pro hac vice is limited to facts or circumstances affecting the personal or financial welfare of the client of the out-of-state attorney, not the attorney. The facts or circumstances may include a showing that by reason of a long-standing attorney-client relationship predating the matter before the court, the out-of-state attorney has acquired a specialized skill or

knowledge with respect to the client's affairs important to the matter or that the client has been unable to secure the services of Connecticut attorney.

(e) If the court grants an application to appear pro hac vice, the court shall immediately notify the statewide grievance committee of the grant.

(Connecticut Practice Book section 2-16)

Sec. 5.5 Legal intern.

(a) On the approval of the court, a legal intern, under the supervision by an attorney licensed to practice law in Connecticut, may appear in court on behalf of a party, if the party consents, in writing, to the appearance of the intern.

(b) A legal intern must:

(1) be a student at an accredited law school; and

(2) file with the court a certification by the dean of the student's law school as being a student in good standing.

(c) The attorney supervising a legal intern shall:

(1) assume personal professional responsibility for the work of the intern;

(2) assist in the intern's preparation to the extent the supervising attorney considers necessary; and

(3) be present in court with the intern.

(d) Section 5.5 does not enlarge the rights of an individual, who is not an attorney meeting the requirements of section 5.3 or 5.4, or a legal intern covered by these rules, to engage in activities customarily considered to be the practice of law.

(Connecticut Practice Book section 3-14 et seq.)

Sec. 5.6 Filing appearance before court.

(a) Except as provided in section 5.1(b) or by leave of the court, an attorney may not appear for a party until the attorney has filed an appearance with the court.

(b) An appearance is entered on the filing with the court an appearance in accordance with section 5.7.

(c) Provided the requirements of section 5.3 or 5.4 have been satisfied, an attorney in the appearing attorney's law firm may appear for the party for whom the appearance is filed without a filing a separate appearance.

(d) An attorney shall send notice of the appearance to each attorney and each party who is not represented by an attorney. The attorney shall certify that the notice has been sent.

Sec. 5.7 Form of appearance.

(a) An appearance filed with a court shall:

- (1) be typed or printed in ink;
- (2) list in the heading the name of the matter, the name of the probate court district and date of the appearance;
- (3) be signed by the attorney making the appearance;
- (4) contain the name and juris number of the attorney, the name of the attorney's law firm, mailing address, and telephone number; and
- (5) indicate whether the appearance is filed in lieu of or in addition to an appearance already on file.

(b) If the appearance is in lieu of an appearance already on file, the attorney filing the new appearance shall send a copy of the new appearance to the attorney whose appearance is to be replaced and certify that the copy has been sent. The requirements of this subsection are in addition to the requirements of section 5.6(d).

Sec. 5.8 Effect of appearance.

(a) The court shall give notice of each hearing and right to request a hearing to each attorney who has filed an appearance and to each party represented by the attorney.

(b) Filing an appearance, by itself, does not waive the right of the party to challenge jurisdiction.

Sec. 5.9 Withdrawal of appearance.

(a) If permitted under section 1.16 of the rules of professional conduct, an attorney, except for a court-appointed attorney, may withdraw the attorney's appearance by:

(1) filing a notice of withdrawal, and

(2) sending the notice to each attorney and each party who is not represented by an attorney.

(b) Except for an appearance in lieu of an appearance on file under section 5.7(b) or written waiver of notice by the party represented, the notice of withdrawal shall be filed in court and sent to each attorney and party not represented by an attorney not later than three business days before the date of a hearing.

Sec. 5.10 Change of name, composition, or association of law firm. An attorney who has entered an appearance shall notify the court of a change of name, composition, association, address, or telephone number of the firm.