

Minutes  
Civil Commission  
Work Group on Civil Rules and Statutes  
225 Spring Street, Room 206  
Wethersfield, CT  
Monday, March 9, 2015  
12:00 noon

Those attending: Hon. Barbara Bellis, Hon. Marshall Berger; Atty. David Belt; Atty. Jonathan Orleans; Atty. Alinor Sterling, and Atty. William Sweeney.

1. Welcome – The meeting was called to order at 12:05 p.m. The group passed the next two agenda items and began a discussion of the proposed revision to Sec. 13-14.
2. Approval of Minutes – Passed
3. Discuss Extension of Time (Motions and Requests) – The group discussed the proposal to extend the amount of time for responding to interrogatories and production requests from 30 days to 60 days, and eliminate the “automatic” request for an extension of time of 30 days. Attorney Sterling raised the concern that giving 60 days for objections could result in a significant delay. She suggested having a 30-day limit for filing objections and a 60 day limit on filing the response. In the alternative, since the time problem would be more significant on supplemental discovery requests, perhaps allow 60 days on the first set and then 30 days for any supplemental interrogatories. Attorney Orleans suggested that treating supplemental discovery requests differently could invite abuses. The group also considered a 45-day limit on both interrogatories and production request responses and objections. After further discussion, the group agreed to present the proposal for 60 days to the full commission.

The work group then discussed the extension of time for responding to a summary judgment motion. The revised draft divided Sec. 17-45 into two sections: the filing of the motion and supporting materials and the filing of the response and affidavits. The group agreed to submit this revision to the full commission as well.

4. Discuss Revisions to Sec. 13-14 – Yeager v. Alvarez – The discussion included the original intention of the statute and the compromises that were made in the legislative process, whether adding these subsections to the rule are necessary given a judge’s inherent authority to order the proposed sanction, and whether it would be better to simply amend the statute. The proposal could result in protracted hearings on whether an action was “intentional” or whether it “undermined” the discovery process, and could result in some anomalies where a party could be deprived of material information and impacted in his or her ability to respond, but would not be able to show “bad faith” or “intention.” Attorney Sterling suggested clarifying the proposed language so that the “prejudice” is clearly tied to a party’s ability to respond to the offer of compromise. Judge Berger would prefer to amend Sections 17 – 12 and 17- 15 to permit the judicial authority to extend the time limit for cause. He also pointed out the statistics on numbers filed and who files offers of compromise, and reminded the group the individual calendars could

address some of the issues that arise. Attorney Orleans suggested that the interest rate on offers is just too high. If the idea is to compensate the plaintiff for having to wait for the money, then the current rate of interest is a serious penalty. After further discussion, the group decided to propose the revision of Sec. 13-14 to “codify” the Yeager v. Alvarez decision. The case will be referenced specifically in the commentary to the proposed revision.

5. Discuss proposal on obtaining documents from a third-party witness without a deposition – This proposal will be discussed at the next meeting of the work group, which will take place on March 30, 2015. The group briefly discussed the federal rules and whether Connecticut should consider adopting the rules. A copy of Federal Rule 45 will be circulated for comparison purposes before the next meeting.

Meeting adjourned at 1:45 p.m.

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