Minutes of the Meeting
Rules Committee
February 22, 2016

On Monday, February 22, 2016, the Rules Committee met in the Supreme Court courtroom from 2:00 p.m. to 3:48 p.m.

Members in attendance were:

HON. MARSHALL K. BERGER, JR.
HON. WILLIAM H. BRIGHT, JR.
HON. HENRY S. COHN
HON. MARY E. SOMMER
HON. ROBIN L. WILSON
HON. ROBERT E. YOUNG

Also in attendance were Joseph J. Del Ciampo, Counsel to the Rules Committee, and Attorneys Denise K. Poncini and Lori A. Petruzzelli of the Judicial Branch's Legal Services Unit. The Honorable Dennis G. Eveleigh, the Honorable Jon M. Alander and the Honorable Robert L. Genaurio were not in attendance at this meeting. In Justice Eveleigh's absence, Judge Berger chaired the meeting.

1. The Committee unanimously approved the minutes of the meeting held on January 11, 2016, as corrected.

2. The Committee considered a report of the Guardian Ad Litem Subcommittee of the Family Re-engineering Committee and a proposal submitted by Judge Bozzuto to adopt new Section 25-61A and to amend Sections 25-62 and 25-62A.

Judge Bozzuto was present and addressed the Committee concerning this proposal.

After discussion, the Committee unanimously voted to submit to public hearing new Section 25-61A, as revised, and the amendments to Sections 25-62 and 25-62A, as set forth in Appendix A attached to these minutes.

3. The Committee considered a proposal by Judge Bozzuto to adopt new Section 25a-1A requiring that a notice be filed in IV-D support cases that the parties or children in the case are receiving child support enforcement services.

Judge Bozzuto was present and addressed the Committee concerning this proposal.

After discussion, the Committee unanimously voted to submit to public hearing new Section 25a-1A, as set forth in Appendix B attached to these minutes.

4. The Committee considered a proposal by Judge Solomon and Judge Devlin to amend Section 44-10A regarding the use of interactive audiovisual devices in criminal matters.

Judges Solomon and Devlin were present and addressed the Committee concerning the proposal.

After discussion, the Committee unanimously voted to submit to public hearing the amendment to Section 44-10A, as revised, as set forth in Appendix C attached to these minutes.

5. The Committee considered a proposal by Judge Bright and Judge Bozzuto to amend Section 23-68 regarding the use of interactive audiovisual devices in any civil matter.

Judge Bozzuto was present and addressed the Committee concerning the proposal as did Judge Bright as Chief Administrative Judge, Civil Division.

After discussion, the Committee unanimously voted to submit to public hearing the amendment to Section 23-68, as revised, as set forth in Appendix D attached to these minutes.

6. The Committee considered a proposal by Judge Bright on behalf of the Civil Commission to amend Sections 2-16, 13-19, and 17-45.

After discussion, the Committee voted to table the discussion on the amendment to Section 13-19 and to refer it to Judge Mintz and the Bench-Bar Foreclosure Committee for further comment. Judge Berger voted in opposition. The Committee further unanimously voted to table the amendment to Section 2-16 for further review concerning the possible reference that depositions are court proceedings. The Committee asked Counsel to review this matter. Finally, the Committee unanimously voted to submit to public hearing the amendment to Section 17-45, as revised, as set forth in Appendix E attached to these minutes. Additionally, the Committee unanimously voted that the commentary to Section 17-45 shall be permanent.

7. The Committee considered a proposal by the Connecticut Bar Association to revise Section 2-13 regarding a Military Spouse Licensing rule and considered comments from Jessica Kallipolites, Administrative Director, on behalf of the Connecticut Bar Examining Committee regarding the proposal.

Attorney Monte Frank, President Elect, Connecticut Bar Association, and Attorney Kathleen Harrington, Deputy Director of the Attorney Services Section of the Judicial Branch's Legal Services Unit, were present and addressed the Committee.

After discussion, the Committee unanimously voted to table the matter to its May 16, 2016, meeting.

8. The Committee considered a proposal on behalf of the Judges' Advisory Committee on E-Filing to amend Section 24-21 to clarify what will happen to appearances once a case is transferred from small claims to the regular docket of the Superior Court or to the regular housing docket.

After discussion, the Committee unanimously voted to submit to public hearing the amendment to Section 24-21, as set forth in Appendix F attached to these minutes.

9. The Committee considered a proposal by Judge Frechette to amend Section 10-60 regarding amendments to pleadings or other parts of the record or proceedings and a proposed related amendment to Section 10-66 provided at the meeting.

After discussion, the Committee unanimously voted to refer the amendment to Section 10-66 to the Civil Commission for consideration of whether any amendment to that section is necessary. The Committee unanimously voted to submit to public hearing the amendment to Section 10-60, as revised, as set forth in Appendix G attached to these minutes.

10. The Committee considered a proposal by Attorney James O'Connor of the Judicial Branch's Legal Services Unit to amend Section 13-28 to be consistent with Public Act 15-211 regarding objections to subpoenas for depositions in out of state, federal and foreign actions.

After discussion, the Committee unanimously voted to submit to public hearing the amendment to Section 13-28, as set forth in Appendix H attached to these minutes.

Respectfully submitted,

Joseph J. Del Ciampo

Joseph J. Del Ciampo
Counsel to the Rules Committee

Appendix A (022216)

(NEW) Sec. 25-61A. Standing Committee on Guardians ad Litem and Attorneys for the Minor Child in Family Matters

(a) There shall be a standing committee on guardians ad litem and attorneys for the minor child in family matters. The membership shall consist of nine individuals, appointed by the chief court administrator. The members shall serve at the pleasure of the chief court administrator, and shall include:

(1) the chief public defender, or his or her designee;

(2) a mental health professional, with experience in the fields of child and family matters;

(3) the commissioner of the department of public health, or his or her designee;

(4) an attorney in good standing, licensed to practice law in the State of Connecticut by the judicial branch, who focuses his or her practice in the area of family law, and who is not on the list of individuals qualified to be appointed as a guardian ad litem or an attorney for a minor child in a family matter;

(5) two judges of the superior court with experience presiding over family matters, one of whom shall be designated by the chief court administrator to serve as chairperson;

(6) two members of the public; and

(7) a representative of a non-profit legal services organization who has experience in family law.

(b) In addition to any other powers and duties set forth in this chapter, the standing committee on guardians ad litem and attorneys for the minor child in family matters shall:

(1) From time to time, establish additional qualifications, not inconsistent with Sections 25-62 and 25-62A, for an individual to be deemed eligible to be appointed as a guardian ad litem or attorney for the minor child in family matters;

(2) Approve the curriculum for the training required by sections 25-62 and 25-62A as amended;

(3) Establish and administer a process by which an individual may be removed from the list of those deemed eligible for appointment as a guardian ad litem or attorney for the minor child in family matters;

(4) Annually review and approve a list of individuals deemed eligible for appointment as a guardian ad litem or attorney for the minor child in family matters; and

(5) Adopt procedures to carry out its functions.

(c) The office of chief public defender shall collaborate with the standing committee on guardians ad litem and attorneys for the minor child in family matters to:

(1) Administer the training of guardians ad litem and attorneys for the minor child in family matters;

(2) Promulgate and maintain an application for individuals to be deemed eligible to be appointed as a guardian ad litem or attorney for the minor child in family matters; and

(3) Provide a list of qualified individuals to be eligible for appointment as a guardian ad litem or attorney for the minor child to the judicial branch at least once per year.

(d) The office of chief public defender may promulgate and maintain an additional application process for eligible individuals wishing to contract with the office of chief public defender to serve as a guardian ad litem or attorney for the minor child at state rates.

COMMENTARY: This new rule establishes a standing committee on guardians ad litem (GALs) and attorneys for the minor child (AMCs) to, among other things, approve the training curriculum for GALs and AMCs, establish additional qualifications for GALs and AMCs, establish and administer a process by which to add or remove an individual from the list of those deemed eligible for appointment, and to approve the list of GALs and AMCs.

Sec. 25-62. Appointment of Guardian ad Litem

(a) The judicial authority may appoint a guardian ad litem for a minor involved in any family matter. Unless the judicial authority orders that another person be appointed guardian ad litem, a family relations counselor shall be designated as guardian ad litem. The guardian ad litem is not required to be an attorney.

(b) With the exception of family relations counselors, no person may be appointed as guardian ad litem **[**until he or she has completed the comprehensive training program for all family division guardians ad litem sponsored by the judicial branch.**]** unless he or she:

(1) Is an attorney in good standing, licensed to practice law in the State of Connecticut by the Judicial Branch, or is a mental health professional, licensed by the Connecticut department of public health and in good standing, in the areas of clinical social work, marriage and family therapy, professional counseling, psychology or psychiatry.

(2) Provides proof that he or she does not have a criminal record;

(3) Provides proof that he or she does not appear on the department of children and families' central registry of child abuse and neglect;

(4) Completes a minimum of 20 hours of pre-service training as determined by the standing committee on guardians ad litem and attorneys for the minor child in family matters;

(5) Meets any additional qualifications established by the standing committee on guardians ad litem and attorneys for the minor child in family matters; and

(6) Applies, provides proof of the foregoing items and is approved as eligible to serve as a guardian ad litem by the standing committee on guardians ad litem and attorneys for the minor child in family matters.

(c) The status of all individuals deemed eligible to be appointed as a guardian ad litem in family matters shall be reviewed by the standing committee on guardians ad litem and attorneys for the minor child in family matters every three years. To maintain eligibility, individuals must:

(1) Certify that they have completed 12 hours of relevant training within the past 3 years, 3 hours of which must be in ethics;

(2) Disclose any changes to their criminal history;

(3) Certify that they do not appear on the department of children and families' central registry of child abuse and neglect; and

(4) Meet additional qualifications as determined by the standing committee on guardians ad litem and attorneys for the minor child in family matters.

(d) The judicial authority may order compensation for services rendered by a court-appointed guardian ad litem.

COMMENTARY: The changes to this rule sets out the minimum professional and other qualifications, and continuing education requirements that an individual must possess and meet in order to be and remain eligible for appointment as a guardian ad litem.

Sec. 25-62A. Appointment of Attorney for the Minor Child

(a) The judicial authority may appoint an attorney for **[a]** the minor child in any family matter.

(b) No person **[shall]** may be appointed as an attorney for **[a]** the minor child **[until he or she has completed the comprehensive training program for all family division attorneys for minor children sponsored by the judicial branch. The judicial authority may order compensation for services rendered by an attorney for a minor child]** unless he or she:

(1) Is an attorney in good standing, licensed to practice law in the state of Connecticut.

(2) Provides proof that he or she does not have a criminal record;

(3) Provides proof that he or she does not appear on the department of children and families' central registry of child abuse and neglect;

(4) Completes a minimum of 20 hours of pre-service training as determined by the standing committee on guardians ad litem and attorneys for the minor child in family matters;

(5) Meets any additional qualifications established by the standing committee on guardians ad litem and attorneys for the minor child in family matters; and

(6) Applies, provides proof of the foregoing items and is approved as eligible to serve as an attorney for the minor child by the standing committee on guardians ad litem and attorneys for the minor child in family matters.

(c) The status of all individuals deemed eligible to be appointed as an attorney for the minor child in family matters shall be reviewed by the standing committee on guardians ad litem and attorneys for the minor child in family matters every three years.

To maintain eligibility, individuals must:

(1) Certify that they have completed 12 hours of relevant training within the past 3 years, 3 hours of which must be in ethics;

(2) Disclose any changes to their criminal history;

(3) Certify that they do not appear on the department of children and families' central registry of child abuse and neglect; and

(4) Meet additional qualifications as determined by the standing committee on guardians ad litem and attorneys for the minor child in family matters.

(d) The judicial authority may order compensation for services rendered by a court-appointed attorney for the minor child.

COMMENTARY: The change to this rule sets out the minimum professional and additional qualifications, and continuing education requirements that an individual must possess and meet in order to be and remain eligible for appointment as an attorney for the minor child.

Appendix B (022216)

(New) Sec. 25a-1A. Notice of IV-D child support enforcement services

(a) In any IV-D support case as defined by Connecticut General Statutes 46b-231, the IV-D agency, or one of its cooperative agencies, shall file a copy of a notice, on a form prescribed by the office of the Chief Court administrator, that the parties or child are receiving child support enforcement services.

(b) Upon termination of child support enforcement services, the IV-D agency, or one of its cooperative agencies, shall file a notice, on a form prescribed by the office of the Chief Court Administrator, that the IV-D support case is closed.

COMMENTARY: This rule is intended to inform the Superior Court in new or pending matters that the same parties or child are also receiving child support enforcement services.

Appendix C (022216)

Sec. 44-10A. —Where Presence of Defendant May Be by Means of an Interactive Audiovisual Device

(a) Unless otherwise ordered by the judicial authority, and in the discretion of the judicial authority, a defendant may be present by means of an interactive audiovisual device for the following proceedings:

(1) Hearings concerning indigency pursuant to General Statutes § 52-259b;

(2) Hearings concerning asset forfeiture, unless the testimony of witnesses is required;

(3) Hearings regarding seized property, unless the testimony of witnesses is required;

(4) With the defendant's consent, bail modification hearings pursuant to Section 38-14;

(5) Sentence review hearings pursuant to General Statutes § 51-195;

(6) **[**With the consent of counsel**]** P**[**p**]**roceedings under General Statutes § 54-56d(k) if the evaluation under General Statutes § 54-56d(j) concludes that the defendant is not competent but is restorable and neither the state nor the defendant intends to contest that conclusion;

(7) Arraignments, provided that counsel for the defendant has been given the opportunity to meet with the defendant prior to the arraignment;

[7**]**(8) A disposition conference held in the judicial district court pursuant to the provisions of Sections 39-11 through 39-17 when it is not reasonably anticipated that an offer for the final disposition of the case will be accepted or rejected upon the conclusion of the conference; **[**and**]**

[8**]**(9) With the consent of counsel a disposition conference held in the geographical area court pursuant to the provisions of Sections 39-11 through 39-17 when it is not reasonably anticipated that an offer for the final disposition of the case will be accepted or rejected upon the conclusion of the conference;

(10) The first scheduled court appearance of the defendant in the judicial district court following the transfer of the case from the geographical area court;

(11) Hearings regarding motions to correct illegal sentence; and

(12) Hearings regarding motions for sentence modification.

(b) Such audiovisual device must operate so that the defendant, his or her attorney, if any, and the judicial authority can see and communicate with each other simultaneously. In addition, a procedure by which the defendant and his or her attorney can confer in private must be provided.

(c) Unless otherwise required by law or ordered by the judicial authority, prior to any proceeding in which a person appears by means of an interactive audiovisual device, copies of all documents which may be offered at the proceeding shall be provided to all counsel and self-represented parties in advance of the proceeding.

(d) Nothing contained in this section shall be construed to establish a right for any person to appear by means of an interactive audiovisual device.

COMMENTARY: The changes to this section identify addition proceedings where the presence of the defendant may be by means of an interactive audio visual device.

Appendix D (022216)

Sec. 23-68. Where Presence of Person May Be by Means of an Interactive Audiovisual Device

[(a) The appearance of an incarcerated individual for any proceeding set forth in subsection (b) of this section may, in the discretion of the judicial authority on motion of a party or on its own motion, be made by means of an interactive audiovisual device. Such audiovisual device must operate so that such person and his or her attorney, if any, and the judicial authority can see and communicate with each other simultaneously. In addition, a procedure by which such person and his or her attorney can confer in private must be provided. For purposes of this section, judicial authority includes family support magistrates.

(b) Proceedings in which an incarcerated individual may appear by means of an interactive audiovisual device are limited to civil and family (1) proceedings prior to trial including, but not limited to, short calendar, prejudgment remedy, lis pendens, mechanics lien and other discovery and procedural hearings, case evaluation conferences, pretrials, alternative dispute resolutions, status conferences, trial management conferences, (2) hearings on posttrial motions and (3) matters within the jurisdiction of the family support magistrate division.]

(a) Upon motion of any party, and at the discretion of the judicial authority, any party or counsel may appear by means of an interactive audiovisual device at any proceeding in any civil matter, including all proceedings within the jurisdiction of the small claims section, or any family matter, including all proceedings within the jurisdiction of the family support magistrate division.

(b) Upon motion of the judicial authority, an incarcerated individual may be required to appear by means of an interactive audiovisual device in any civil or family matter.

(c) For purposes of this section, an interactive audiovisual device must operate so that any party and his or her counsel, if any, and the judicial authority can see and communicate with each other simultaneously. In addition, a procedure by which an incarcerated individual and his or her counsel can confer in private must be provided.

[(c)](d) Unless otherwise required by law or unless otherwise ordered by the judicial authority, prior to any proceeding in which a person appears by means of an interactive audiovisual device, copies of all documents which may be offered at the proceeding shall be provided to all counsel and self-represented parties in advance of the proceeding.

[(d)](e) Nothing contained in this section shall be construed to [establish a right for any incarcerated person to appear by means of an interactive audiovisual device] limit the discretion of the judicial authority to deny a request to appear by means of an interactive audiovisual device where, in the judicial authority's judgment, the interest of justice or the presentation of the case require that the party or counsel appear in person.

(f) For purposes of this section, judicial authority includes family support magistrates and magistrates appointed by the chief court administrator pursuant to General Statutes § 51-193*l*.

COMMENTARY: The expansion of the use of interactive audiovisual device (IAD) is an outgrowth of the Judicial Branch's Public Service and Trust Commission and the Access to Justice Commission. In part, the use and expansion of IAD supports one of the Judicial Branch's primary goals to increase the efficiency of case management and court practices and to assess, develop and support projects and programs that expand access to the courts for all people.

IAD technology allows the Judicial Branch to increase courthouse security and decrease the safety risks to the public and staff when transporting inmates by permitting inmate participation in court proceedings via IAD. Additional benefits are also realized through cost reductions associated with travel expenses and staffing.

The flexibility afforded by the use of IAD is also beneficial; hearings, conferences and meetings via internet hookup can be quickly arranged allowing judges to hear more cases, more easily.

Appendix E (022216)

Sec. 17-45. —Proceedings upon Motion for Summary Judgment; Request for Extension of Time to Respond

(a) A motion for summary judgment shall be supported by [such] appropriate documents [as may be appropriate], including but not limited to affidavits, certified transcripts of testimony under oath, disclosures, written admissions and [the like] other supporting documents. [The motion shall be placed on the short calendar to be held not less than fifteen days following the filing of the motion and the supporting materials, unless the judicial authority otherwise directs. Any adverse party may, within ten days of the filing of the motion with the court, file a request for extension of time to respond to the motion. The clerk shall grant such request and cause the motion to appear on the short calendar not less than thirty days from the filing of the request. Any adverse party shall at least five days before the date the motion is to be considered on the short calendar file opposing affidavits and other available documentary evidence. Affidavits, and other documentary proof not already a part of the file, shall be filed and served as are pleadings.]

(b) Unless otherwise ordered by the judicial authority, any adverse party shall file and serve a response to the motion for summary judgment within forty-five days of the filing of the motion, including opposing affidavits and other available documentary evidence.

(c) Unless otherwise ordered by the judicial authority, the moving party shall not claim the motion for summary judgment to the short calendar less than forty-five days after the filing of the motion for summary judgment.

COMMENTARY: This revision increases the time for filing a response to a motion for summary judgment to forty-five days in order to provide parties with sufficient time to review and gather information to respond to the motion. By extending the time, it is expected that parties will not find it necessary to seek an extension of time. The rule, therefore, also eliminates the provision for filing a request for extension of time, although parties would not be precluded from filing a motion for an extension of time if needed. The rule also requires the moving party to claim the motion to the short

calendar not less than forty-five days from the filing of the motion to accommodate the additional time for filing a response. Previously a motion for summary judgment would be placed on the calendar automatically. The judicial authority can order parties to comply with a shorter or longer time frame for the filing of a motion for summary judgment and response at any time. The revision also separates the rule into three distinct sections: filing the motion and supporting materials; filing the response to the motion, including opposing affidavits and other documentary evidence; and claiming the motion to the short calendar.

Appendix F (022216)

Sec. 24-21. Transfer to Regular Docket

(a) A case duly entered on the small claims docket of a small claims area or housing session court location shall be transferred to the regular docket of the superior court or to the regular housing docket, respectively, if the following conditions are met:

(1) The defendant, or the plaintiff if the defendant has filed a counterclaim, shall file a motion to transfer the case to the regular docket. This motion must be filed on or before the answer date with certification of service pursuant to Section 10-12 et seq. If a motion to open claiming lack of actual notice is granted, the motion to transfer with accompanying documents and fees must be filed within fifteen days after the notice granting the motion to open was sent.

(2) The motion to transfer must be accompanied by (A) a counterclaim in an amount greater than the jurisdiction of the small claims court; or (B) an affidavit stating that a good defense exists to the claim and setting forth with specificity the nature of the defense, or stating that the case has been properly claimed for trial by jury.

(3) The moving party shall pay all necessary statutory fees at the time the motion to transfer is filed, including any jury fees if a claim for trial by jury is filed.

(b) When a defendant or plaintiff on a counterclaim has satisfied one of the conditions of subsection (a) (2) herein, the motion to transfer to the regular docket shall be granted by the judicial authority, without the need for a hearing.

(c) A case which has been properly transferred shall be transferred to the docket of the judicial district which corresponds to the venue of the small claims matter, except that a housing case properly transferred shall remain in or be transferred to the housing session and be placed upon the regular housing docket. A case may be consolidated with a case pending in any other clerk's office of the superior court.

(d) When a case is transferred from the small claims docket to the regular docket of the superior court or to the regular housing docket, the appearance entered in the small claims case of an attorney at law and of a self-represented party as an individual shall be entered on the appropriate docket of the superior court. Unless otherwise ordered, when a case is transferred from the small claims docket to the regular docket of the superior court or to the regular housing docket, the appearance of

any representative that was recognized in the small claims case, other than an attorney at law or a self-represented party as an individual, shall be entered on the appropriate docket of the superior court for notice purposes only and not as a representative of any party in the case.

COMMENTARY: Practice Book Section 24-6 defines the word "representative" as including many individuals who, once the case is transferred to the regular docket of the Superior Court or the regular housing docket, are not authorized to represent any party in the case. The amendment to this section is intended to clarify that situation and to provide appropriate notice to those individuals who were recognized as representatives in the small claims case but who will not be recognized as such in the superior court.

Appendix G (022216)

Sec. 10-60. —Amendment by Consent, Order of Judicial Authority, or Failure to Object

(a) Except as provided in Section 10-66, a party may amend his or her pleadings or other parts of the record or proceedings at any time subsequent to that stated in the preceding section in the following manner:

(1) By order of judicial authority; or

(2) By written consent of the adverse party; or

(3) By filing a request for leave to file such amendment, with the amendment [appended] and the portion or portions of the original pleading or other part of the record or proceeding showing the requested amendments by brackets for deletions and underlines for added language, each appended separately, after service upon each party as provided by Sections 10-12 through 10-17, and with proof of service endorsed thereon. If no objection thereto has been filed by any party within fifteen days from the date of the filing of said request, the amendment shall be deemed to have been filed by consent of the adverse party. If an opposing party shall have objection to any part of such request or the amendment appended thereto, such objection in writing specifying the particular paragraph or paragraphs to which there is objection and the reasons therefor, shall, after service upon each party as provided by Sections 10-12 through 10-17 and with proof of service endorsed thereon, be filed with the clerk within the time specified above and placed upon the next short calendar list.

(b) The judicial authority may restrain such amendments so far as may be necessary to compel the parties to join issue in a reasonable time for trial. If the amendment occasions delay in the trial or inconvenience to the other party, the judicial authority may award costs in its discretion in favor of the other party. For the purposes of this rule, a substituted pleading shall be considered an amendment.

COMMENTARY: The revision to this section requires the person filing the proposed amended pleading or other part of the record or proceeding to, in addition to filing an entirely new amended pleading, separately set forth just the proposed amendment on a separate page so that the reader does not have to examine the entire

new proposed pleading to discover or find the new language. This change will make it easier for the court and the opposing party to see what the proposed amendment is, and where it is located.

Appendix H

Sec. 13-28. –Persons before Whom Disposition Taken; Subpoenas

(a) Within this state, depositions shall be taken before a judge or clerk of any court, notary public or commissioner of the superior court. In any other state or country, depositions for use in a civil action, probate proceeding or administrative appeal within this state shall be taken before a notary public, of such state or country, a commissioner appointed by the governor of this state, any magistrate having power to administer oaths in such state or country, or a person commissioned by the court before which such action or proceeding is pending, or when such court is not in session, by any judge thereof. Any person so commissioned shall have the power by virtue of his or her commission to administer any necessary oaths and to take testimony. Additionally, if a deposition is to be taken out of the United States, it may be taken before any foreign minister, secretary of a legation, consul or vice-consul appointed by the United States or any person by him or her appointed for the purpose and having authority under the laws of the country where the deposition is to be taken; and the official character of any such person may be proved by a certificate from the secretary of state of the United States.

(b) Each judge or clerk of any court, notary public or commissioner of the superior court, in this state, may issue a subpoena, upon request, for the appearance of any witness before an officer authorized to administer oaths within this state to give testimony at a deposition subject to the provisions of Sections 13-2 through 13-5, if the party seeking to take such person's deposition has complied with the provisions of Sections 13-26 and 13-27.

(c) A subpoena issued for the taking of a deposition may command the person to whom it is directed to produce and permit inspection and copying of designated books, papers, documents or tangible things which constitute or contain matters within the scope of the examination permitted by Sections 13-2 through 13-5. Unless otherwise ordered by the court or agreed upon in writing by the parties any subpoena issued to a person commanding the production of documents or other tangible thing at a deposition shall not direct compliance within less than fifteen days from the date of service thereof.

(d) The person to whom a subpoena is directed may, within fifteen days after the service thereof or within such time as otherwise ordered by the court or agreed upon in writing by the parties, serve upon the issuing authority designated in the subpoena written objection to the inspection or copying of any or all of the designated materials. If objection is made, the party at whose request the subpoena was issued shall not be entitled to inspect and copy the disputed materials except pursuant to an order of the court in which the cause is pending. The party who requested the subpoena may, if objection has been made, move, upon notice to the deponent, for an order at any time before or during the taking of the deposition.

(e) The court in which the cause is pending, or, if the cause is pending in a foreign court, the court in the judicial district wherein the subpoenaed person resides, may, upon motion made promptly and, in any event, at or before the time for compliance specified in a subpoena authorized by subsection (b) of this section, (1) quash or modify the subpoena if it is unreasonable and oppressive or if it seeks the production of materials not subject to production under the provisions of subsection (c) of this section, or (2) condition denial of the motion upon the advancement by the party who requested the subpoena of the reasonable cost of producing the materials being such.

(f) If any person to whom a lawful subpoena is issued under any provision of this section fails without just excuse to comply with any of its terms, the court before which the cause is pending, or any judge thereof, or, if the cause is pending in a foreign court, the court in the judicial district wherein the subpoenaed person resides, may issue a capias and cause the person to be brought before that court or judge, as the case may be, and, if the person subpoenaed refuses to comply with the subpoena, the court or judge may commit the person to jail until he or she signifies a willingness to comply with it.

(g) (1) Deposition of witnesses living in this state may be taken in like manner to be used as evidence in a civil action or probate proceeding pending in any court of the United States or of any other state of the United States or of any foreign country, on application of any party to such civil action or probate proceeding.

(2) Any person to whom a subpoena has been directed in a civil action or probate proceeding, other than a party to such civil action or probate court proceeding, pending in any court of any other state of the United States or of any foreign country, which subpoena commands (A) the person's appearance at a deposition, or (B) the production, copying or inspection of books, papers, documents or tangible things may, within fifteen days after the service thereof or on or before the time specified in the subpoena for compliance if such time is less than fifteen days after service, serve upon the party who requested issuance of the subpoena written objection to appearing or producing, copying or permitting the inspection of such books, papers, documents or tangible things on the ground that the subpoena will cause such person undue or unreasonable burden or expense. Service of the objection shall be made by United States mail, certified or registered, postage prepaid, return receipt requested, without the use of a state marshal or other officer. Such written objection shall be accompanied by an affidavit of costs setting forth the estimated or actual costs of compliance with such subpoena, including, but not limited to, the person's attorney's fees or the costs to such person of electronic discovery. If a person makes such written objection, the party who requested issuance of the subpoena (i) shall not be entitled to compel such person's appearance or receive, copy or inspect the books, papers, documents or tangible things, except pursuant to an order of the Superior Court, and (ii) may, upon notice to such person, file a motion with the court in the judicial district wherein the subpoenaed person resides, for an order to compel such person's appearance or production, copying or inspection of such materials in accordance with the terms of such subpoena. Upon receipt of such motion together with the payment of all entry fees, if required, the clerk shall schedule the matter for hearing and provide the moving party notice of the time and place of the hearing. The moving party shall serve the motion to compel and the notice of the time and place of the hearing upon the subpoenaed party. When ruling on such motion to compel, the court shall make a finding as to whether the subpoena subjects the person to undue or unreasonable burden or expense prior to entering any order to compel such person's appearance or the production, copying or inspection of such materials. If the court finds that the subpoena issued to the person

subjects such person to undue or unreasonable burden or expense, any order to compel such person's appearance or production, copying or inspection of such materials shall protect the person from undue or unreasonable burden or expense resulting from compliance with such subpoena and, except in the case of a subpoena commanding the production, copying or inspection of medical records, may include, but not be limited to, the reimbursement of such person's reasonable costs of compliance, as set forth in the affidavit of costs.

(3) The provisions of subdivision (2) shall not be applicable to a civil action filed to recover damages resulting from personal injury or wrongful death in which it is alleged that such injury or death resulted from professional malpractice of a health care provider or health care institution.

COMMENTARY: The revision to this section is consistent with the provisions of General Statutes § 52-148e (f) as amended by No. 15-211, § 29, of the 2015 Public Acts.