Minutes of the Meeting
Rules Committee
March 22, 2012

On Thursday, March 22, 2012, the Rules Committee met in the Supreme Court Courtroom from 2:00 p.m. to 3:14 p.m.

Members in attendance were:

HON. DENNIS G. EVELEIGH, CHAIR
HON. BARBARA N. BELLIS
HON. WILLIAM M. BRIGHT, JR.
HON. JULIET L. CRAWFORD
HON. RICHARD W. DYER
HON. MAUREEN M. KEEGAN
HON. ELIOT D. PRESCOTT
HON. MICHAEL R. SHELDON
HON. CARL E. TAYLOR

Also in attendance were Carl E. Testo, Counsel to the Rules Committee, and Attorneys Denise K. Poncini and Joseph Del Ciampo of the Judicial Branch's Legal Services Unit.

1. The Committee approved the minutes of the February 27, 2012, meeting

2. The Committee considered proposed Minimum Continuing Legal Education (MCLE) rules and materials submitted by CBA President Keith Bradoc Gallant and comments from various attorneys and bar associations. Attorneys Irene Jacobs and Barry Hawkins addressed the Committee concerning these proposals.

After discussion, the Committee deferred decision on this item so that Justice Eveleigh can request the Chief Justice to appoint a committee to study MCLE and make a recommendation to the Rules Committee.

3. At a prior meeting the Committee considered proposals by Statewide Bar Counsel Michael Bowler and Chief Disciplinary Counsel Pat King to amend Sections 2-32, 2-34A and 2-35, which would allow disciplinary counsel to add charges of misconduct in grievance complaints. At that meeting the Committee asked that the proposed revisions to 2-34A and 2-35 be further revised and resubmitted.

At this meeting the Committee considered a revised submission by Attorneys King and Bowler and a letter from Attorney Richard A. Cerrato on behalf of the CBA Professional

Discipline Committee concerning the proposals. Attorneys Bowler and King addressed the Rules Committee concerning their changes.

After discussion, the Committee unanimously voted to submit to public hearing the amendments to Sections 2-32, 2-34A and 2-35 as set forth in Appendix A attached hereto.

4. The Committee discussed the recommendation it will make concerning replacing two members of the Legal Specialization Screening Committee whose terms will expire on July 1, 2012.

After discussion, the Committee unanimously voted to recommend to Chief Justice Rogers that Attorneys Rosemary Paine and Robert Dwyer be appointed to fill the two upcoming vacancies on the Legal Specialization Screening Committee. Additionally, the Committee unanimously voted to recommend that Attorney Jeffrey Low be appointed Vice Chair of the Legal Specialization Screening Committee if he is willing to so serve.

5. The Committee considered a proposal by the Bar Examining Committee to amend Section 2-13 to bring the educational qualifications for admission without examination in line with current Bar Examining Committee standards for admission by examination. Attorneys Howard Emond, Deputy Director of Legal Services, and Kathleen Harrington, Administrative Director of the Bar Examining Committee, addressed the Committee concerning this proposal.

After discussion, the Committee unanimously voted to submit to public hearing the amendment to Section 2-13 as set forth in Appendix B attached hereto.

At the request of the Bar Examining Committee, the Rules Committee will recommend to the Superior Court judges that the effective date of this revision, should it be adopted, be September 1, 2012.

6. The Committee considered a proposal by the Judges Advisory Committee on e-filing to amend Section 4-7 to require that an unredacted original of a redacted document filed with the court be retained by the filer.

After discussion, the Committee unanimously voted to submit to public hearing the amendment to Section 4-7 as set forth in Appendix C attached hereto.

7. The Committee considered a proposal by the Judges Advisory Committee to amend Section 10-14 concerning certification of service of appearances.

After discussion, the Committee tabled the proposal.

8. The Committee considered a proposal by the Civil Commission to amend Section 10-

29 concerning the filing and service of documents that are referred to as exhibits in a complaint.

After discussion, the Committee revised the proposal and unanimously voted to submit to public hearing the amendment to Section 10-29 as set forth in Appendix D attached hereto.

9. The Committee considered a proposal by Judge Christine Keller, Chief Administrative Judge for Juvenile Matters, to amend the juvenile rules in light of recent changes to the appellate rules.

After discussion, the Committee unanimously voted to submit to public hearing the revisions to the juvenile rules as set forth in Appendix E attached hereto.

10. The Committee considered a proposal by Judge Lynda Munro, Chief Administrative Judge for Family Matters, to amend Section 25-61 concerning evaluations by the Family Division of parties or children in family proceedings.

After discussion, the Committee voted to submit to public hearing the revision to Section 25-61 as set forth in Appendix F attached hereto. Judge Crawford abstained from this vote.

11. The Committee considered a proposal by Attorney Zenas Zelotes to amend Section 2-54 concerning the publication of notices of reprimand, suspension, disbarment, resignation, placement on inactive status, or reinstatement of attorneys.

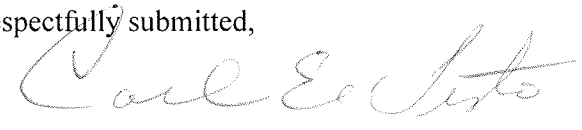
After discussion, the Committee decided to refer this matter to the Statewide Grievance Committee for comment.

12. The Committee continued its consideration a proposal by Judge Robert J. Devlin, Jr., Chief Administrative Judge of the Criminal Division, to amend the rules to provide more protection of juror privacy.

After discussion, the Committee unanimously voted to submit to public hearing the revision to Section 42-8 as set forth in Appendix G attached hereto .

13. The Committee will conduct a public hearing on May 21, 2012, at 10:00 a.m. in the Supreme Court.

Respectfully submitted,



Carl E. Testo
Counsel to the Rules Committee

APPENDIX A (032212 mins)

Sec. 2-32. Filing Complaints against Attorneys; Action; Time Limitation

(a) Any person, including disciplinary counsel, or a grievance panel on its own motion, may file a written complaint, executed under penalties of false statement, alleging attorney misconduct whether or not such alleged misconduct occurred in the actual presence of the court. Complaints against attorneys shall be filed with the statewide bar counsel. Within seven days of the receipt of a complaint the statewide bar counsel shall review the complaint and process it in accordance with subdivisions (1), (2) or (3) of this subsection as follows:

(1) forward the complaint to a grievance panel in the judicial district in which the respondent maintains his or her principal office or residence, provided that, if the respondent does not maintain such an address in this state, the statewide bar counsel shall forward the complaint to any grievance panel; and notify the complainant and the respondent, by certified mail with return receipt, of the panel to which the complaint was sent. The notification to the respondent shall be accompanied by a copy of the complaint. The respondent shall respond within thirty days of the date notification is mailed to the respondent unless for good cause shown such time is extended by the grievance panel. The response shall be sent to the grievance panel to which the complaint has been referred. The failure to file a timely response shall constitute misconduct unless the respondent establishes that the failure to respond timely was for good cause shown;

(2) refer the complaint to the chair of the statewide grievance committee or an attorney designee of the chair and to a nonattorney member of the committee, and the statewide bar counsel in conjunction with the chair or attorney designee and the nonattorney member, shall if deemed appropriate, dismiss the complaint on one or more of the following grounds:

(A) the complaint only alleges a fee dispute and not a clearly excessive or improper fee;

(B) the complaint does not allege facts which, if true, would constitute a violation of any provision of the applicable rules governing attorney conduct;

(C) the complaint does not contain sufficient specific allegations on which to conduct an investigation;

(D) the complaint is duplicative of a previously adjudicated complaint;

(E) the complaint alleges that the last act or omission constituting the alleged misconduct occurred more than six years prior to the date on which the complaint was filed;

(i) Notwithstanding the period of limitation set forth in this subparagraph, an allegation of misconduct that would constitute a violation of Rule 1.15, 8.1 or 8.4 (2) through (6) of the Rules of Professional Conduct may still be considered as long as a written complaint is filed within one year of the discovery of such alleged misconduct.

(ii) Each period of limitation in this subparagraph is tolled during any period in which: (1) the alleged misconduct remains undiscovered due to active concealment; (2) the alleged misconduct would constitute a violation of Rule 1.8 (c) and the conditions precedent of the instrument have not been satisfied; (3) the alleged misconduct is part of a continuing course of misconduct; or (4) the aggrieved party is under the age of majority, insane, or otherwise unable to file a complaint due to mental or physical incapacitation.

(F) the complaint alleges misconduct occurring in a superior court, appellate court or supreme court action and the court has been made aware of the allegations of misconduct and has rendered a decision finding misconduct or finding that either no misconduct has occurred or that the allegations should not be referred to the statewide grievance committee;

(G) the complaint alleges personal behavior outside the practice of law which does not constitute a violation of the Rules of Professional Conduct;

(H) the complaint alleges the nonpayment of incurred indebtedness;

(I) the complaint names only a law firm or other entity and not any individual attorney, unless dismissal would result in gross injustice. If the complaint names a law firm or other entity as well as an individual attorney or attorneys, the complaint shall be dismissed only as against the law firm or entity;

(J) the complaint alleges misconduct occurring in another jurisdiction in which the attorney is also admitted and in which the attorney maintains an office to practice law, and it would be more practicable for the matter to be determined in the other jurisdiction. If a complaint is dismissed pursuant to this subdivision, it shall be without prejudice and the matter shall be referred by the statewide bar counsel to the jurisdiction in which the conduct is alleged to have occurred.

(3) If a complaint alleges only a fee dispute within the meaning of subsection (a) (2) (A) of this section, the statewide bar counsel in conjunction with the chairperson or attorney designee and the nonattorney member may stay further proceedings on the complaint on such terms and conditions deemed appropriate, including referring the parties to fee arbitration. The record and result of any such fee arbitration shall be filed with the statewide bar counsel and shall be dispositive of the complaint. A party who refuses to utilize the no cost fee arbitration service provided by the Connecticut Bar Association shall pay the cost of the arbitration.

(b) The statewide bar counsel, chair or attorney designee and nonattorney member shall have fourteen days from the date the complaint was filed to determine whether to dismiss the complaint. If after review by the statewide bar counsel, chair or attorney designee and nonattorney member it is determined that the complaint should be forwarded to a grievance panel for investigation in accordance with subsections (f) through (j) of this section, the complaint shall be so forwarded in accordance with subsection (a) (1) of this section within seven days of the determination to forward the complaint.

(c) If the complaint is dismissed by the statewide bar counsel in conjunction with the chair or attorney designee and nonattorney member, the complainant and respondent shall be notified of the dismissal in writing. The respondent shall be provided with a copy of the complaint with the notice of dismissal. The notice of dismissal shall set forth the reason or reasons for the dismissal. The complainant shall have fourteen days from the date notice of the dismissal is mailed to the complainant to file an appeal of the dismissal. The appeal shall be in writing setting forth the basis of the appeal and shall be filed with the statewide bar counsel who shall forward it to a reviewing committee for decision on the appeal. The reviewing committee shall review the appeal and render a decision thereon within sixty days of the filing of the appeal. The reviewing committee shall either affirm the dismissal of the complaint or order the complaint forwarded to a grievance panel for investigation in accordance with subsections (f) through (j) of this section. The decision of the reviewing committee shall be in writing and mailed to the complainant. The decision of the reviewing committee shall be final.

(d) The statewide bar counsel shall keep a record of all complaints filed. The complainant and the respondent shall notify the statewide bar counsel of any change of address or telephone number during the pendency of the proceedings on the complaint.

(e) If for good cause a grievance panel declines, or is unable pursuant to Section 2-29 (d), to investigate a complaint, it shall forthwith return the complaint to the statewide bar counsel to be referred by him or her immediately to another panel. Notification of such referral shall be given by the statewide bar counsel to the complainant and the respondent by certified mail with return receipt.

(f) The grievance panel, with the assistance of the grievance counsel assigned to it, shall investigate each complaint to determine whether probable cause exists that the attorney is guilty of misconduct. The grievance panel may, upon the vote of a majority of its members, require that a disciplinary counsel pursue the matter before the grievance panel on the issue of probable cause.

(g) Investigations and proceedings of the grievance panel shall be confidential unless the attorney under investigation requests that such investigation and proceedings be public.

(h) On the request of the respondent and for good cause shown, or on its own motion, the grievance panel may conduct a hearing on the complaint. The complainant and respondent shall be entitled to be present at any proceedings on the complaint at which testimony is given and to have counsel present, provided, however, that they shall not be entitled to examine or cross-examine witnesses unless requested by the grievance panel.

(i) The panel shall, within one hundred and ten days from the date the complaint was referred to it, unless such time is extended pursuant to subsection (j), do one of the following: (1) If the panel determines that probable cause exists that the respondent is guilty of misconduct, it shall file the following with the statewide grievance committee and with the disciplinary counsel: (A) its written determination that probable cause exists that the respondent is guilty of misconduct, (B) a copy of the complaint and response, (C) a transcript of any testimony heard by the panel, (D) a copy of any investigatory file and copies of any documents, transcripts or other written materials which were available to the panel. These materials shall constitute the panel's record in the case. (2) If the panel determines that no probable cause exists that the respondent is guilty of misconduct, it shall dismiss the complaint unless there is an allegation in the complaint that the respondent committed a crime. Such dismissal shall be final and there shall be no review of the matter by the statewide grievance committee, but the panel shall file with the statewide grievance committee a copy of its decision dismissing the complaint and the materials set forth in subsection (i) (1) (B), (C) and (D). In cases in which there is an allegation in the complaint that the respondent committed a crime, the panel shall file with the statewide grievance committee and with disciplinary counsel its written determination that no probable cause exists and the materials set forth in subsection (i) (1) (B), (C) and (D). These materials shall constitute the panel's record in the case.

(j) The panel may file a motion for extension of time not to exceed thirty days with the statewide grievance committee which may grant the motion only upon a finding of good cause. If the panel does not complete its action on a complaint within the time provided in this section, the statewide grievance committee shall inquire into the delay and shall order that the panel take action on the complaint forthwith, or order that the complaint be forwarded to and heard by another panel or a reviewing committee designated by the statewide grievance committee. **[**The panel shall not make a probable cause determination based, in full or in part, on a claim of misconduct not alleged in the complaint without first notifying the respondent that it is considering such action and affording the respondent the opportunity to be heard.**]**

(k) The panel shall notify the complainant, the respondent, and the statewide grievance committee of its determination. The determination shall be a matter of public record if the panel determines that probable cause exists that the respondent is guilty of misconduct.

COMMENTARY: The above change is made in light of the changes to Section 2-35 which allow Disciplinary Counsel to add additional allegations of misconduct to grievance complaints.

Sec. 2-34A. Disciplinary Counsel

(a) There shall be a chief disciplinary counsel and such disciplinary counsel and staff as are necessary. The chief disciplinary counsel and the disciplinary counsel shall be appointed by the judges of the superior court for a term of one year commencing July 1, except that initial appointments shall be from such date as the judges determine through the following June 30. In the event that a vacancy arises in any of these positions before the end of a term, the executive committee of the superior court may appoint a qualified individual to fill the vacancy for the balance of the term. The chief disciplinary counsel and disciplinary counsel shall be assigned to the office of the chief court administrator for administrative purposes and shall not engage in the private practice of law. The term ‘‘disciplinary counsel’’ as used in the rules for the superior court shall mean the chief disciplinary counsel or any disciplinary counsel.

(b) In addition to any other powers and duties set forth in this chapter, disciplinary counsel shall:

(1) Investigate each complaint which has been forwarded, after a determination that probable cause exists that the respondent is guilty of misconduct, by a grievance panel to the statewide grievance committee for review pursuant to Section 2-32 (i) and pursue such matter before the statewide grievance committee or reviewing committee. When, after a determination of no probable cause by a grievance panel, a complaint is forwarded to the statewide grievance committee because it contains an allegation that the respondent committed a crime, and the statewide grievance committee or a reviewing committee determines that a hearing shall be held concerning the complaint pursuant to Section 2-35 (c), the disciplinary counsel shall present the matter to such committee.

(2) Pursuant to Section 2-82, discuss and may negotiate a disposition of the complaint with the respondent or, if represented by an attorney, the respondent’s attorney, subject to the approval of the statewide grievance committee or a reviewing committee or the court.

(3) Remove irrelevant information from the complaint file and thereafter permit discovery of information in the file.

(4) Pursuant to Section 2-35, add additional allegations of misconduct to the grievance panel's determination that probable cause exists that the respondent is guilty of misconduct.

[(4)**]** (5) Have the power to subpoena witnesses for any hearing before a grievance panel, a reviewing committee or the statewide grievance committee convened pursuant to these rules.

[(5)**]** (6) In his or her discretion, recommend dispositions to the statewide grievance committee or the reviewing committee after the hearing on a complaint is concluded.

[(6)**]** (7) At the request of the statewide grievance committee or a reviewing committee, prepare and file complaints initiating presentment proceedings in the superior court, whether or not the alleged misconduct occurred in the actual presence of the court, and prosecute same.

[(7)**]** (8) At the request of a grievance panel made pursuant to Section 2-29, pursue the matter before the grievance panel on the issue of probable cause.

[(8)**]** (9) Investigate and prosecute complaints involving the violation by any person of General Statutes § 51-88.

COMMENTARY: The above change is made in light of the changes to Section 2-35 which allow Disciplinary Counsel to add additional allegations of misconduct to grievance complaints.

Sec. 2-35. Action by Statewide Grievance Committee or Reviewing Committee

(a) Upon receipt of the record from a grievance panel, the statewide grievance committee may assign the case to a reviewing committee which shall consist of at least three members of the statewide grievance committee, at least one third of whom are not attorneys. The statewide grievance committee may, in its discretion, reassign the case to a different reviewing committee. The committee shall regularly rotate membership on reviewing committees and assignments of complaints from the various grievance panels. An attorney who maintains an office for the practice of law in the same judicial district as the respondent may not sit on the reviewing committee for that case.

(b) The statewide grievance committee and the reviewing committee shall have the power to issue a subpoena to compel any person to appear before it to testify in relation to any matter deemed by the statewide grievance committee or the reviewing committee to be relevant to the complaint and to produce before it for examination any books or papers which, in its judgment, may be relevant to such complaint. Any such testimony shall be on the record.

(c) If the grievance panel determined that probable cause exists that the respondent is guilty of misconduct, the statewide grievance committee or the reviewing committee shall hold a hearing on the complaint. If the grievance panel determined that probable cause does not exist,

but filed the matter with the statewide grievance committee because the complaint alleges that a crime has been committed, the statewide grievance committee or the reviewing committee shall review the determination of no probable cause, take evidence if it deems it appropriate and, if it determines that probable cause does exist, shall take the following action: (1) if the statewide grievance committee reviewed the grievance panel's determination, it shall hold a hearing concerning the complaint or assign the matter to a reviewing committee to hold the hearing; or (2) if a reviewing committee reviewed the grievance panel's determination, it shall hold a hearing concerning the complaint or refer the matter to the statewide grievance committee which shall assign it to another reviewing committee to hold the hearing. **[**At least two of the same members of a reviewing committee shall be physically present at all hearings held by such reviewing committee. Unless waived by the disciplinary counsel and the respondent, the remaining member of the reviewing committee shall obtain and review the transcript of each such hearing and shall participate in the committee's determination. The review by the statewide grievance committee or reviewing committee of a grievance panel determination that probable cause exists shall not be limited to the grievance panel determination. The statewide grievance committee or reviewing committee may review the entire record and determine whether any allegation in the complaint, or any issue arising from the review of the record or arising during any hearing on the complaint, supports a finding of probable cause of misconduct. If either the statewide grievance committee or the reviewing committee determines that probable cause does exist, it shall issue a written notice which shall include but not be limited to the following: (i) a description of the factual allegation or allegations that were considered in rendering the determination; and (ii) for each such factual allegation, an identification of the specific provision or provisions of the applicable rules governing attorney conduct considered in rendering the determination. The statewide grievance committee or reviewing committee shall not make a probable cause determination based, in full or in part, on a claim of misconduct not alleged in the complaint without first notifying the respondent that it is contemplating such action and affording the respondent the opportunity to be heard. All hearings following a determination of probable cause shall be public and on the record, except for contemplated probable cause hearings which shall be confidential unless the respondent requests that such hearing be public.**]**

(d) Disciplinary counsel may add additional allegations of misconduct to the grievance panel's determination that probable cause exists in the following circumstances:

(1) Prior to the hearing before the statewide grievance committee or the reviewing committee, disciplinary counsel may add additional allegations of misconduct arising from the record of the grievance complaint or its investigation of the complaint.

(2) Following commencement of the hearing before the statewide grievance committee or the reviewing committee, disciplinary counsel may only add additional allegations of misconduct for good cause shown and with the consent of the respondent and the statewide grievance committee or the reviewing committee. Additional allegations of misconduct may not be added after the hearing has concluded.

(e) If disciplinary counsel determines that additional allegations of misconduct exist, it shall issue a written notice to the respondent and the statewide grievance committee which shall include but not be limited to the following: (i) a description of the factual allegation or allegations that were considered in rendering the determination; and (ii) for each such factual allegation, an identification of the specific provision or provisions of the applicable rules governing attorney conduct considering in rendering the determination.

(f) Respondent shall be entitled to a period of not less than 30 days before being required to appear at a hearing to defend against any additional charges of misconduct filed by the disciplinary counsel.

(g) At least two of the same members of a reviewing committee shall be physically present at all hearings held by the reviewing committee. Unless waived by the disciplinary counsel and the respondent, the remaining member of the reviewing committee shall obtain and review the transcript of each such hearing and shall participate in the committee's determination. All hearings following a determination of probable cause shall be public and on the record.

[(d)**]** (h) The complainant and respondent shall be entitled to be present at all hearings and other proceedings on the complaint at which testimony is given and to have counsel present. At all hearings, the respondent shall have the right to be heard in the respondent's own defense and by witnesses and counsel. The disciplinary counsel shall pursue the matter before the statewide grievance committee or reviewing committee. The disciplinary counsel and the respondent shall be entitled to examine or cross-examine witnesses. At the conclusion of the evidentiary phase of a hearing, the complainant, the disciplinary counsel and the respondent shall have the opportunity to make a statement, either individually or through counsel. The statewide grievance committee or reviewing committee may request oral argument.

[(e)**]** (i) Within ninety days of the date the grievance panel filed its determination with the statewide grievance committee pursuant to Section 2-32 (i), the reviewing committee shall

render a final written decision dismissing the complaint, imposing sanctions and conditions as authorized by Section 2-37 or directing the disciplinary counsel to file a presentment against the respondent in the superior court and file it with the statewide grievance committee. Where there is a final decision dismissing the complaint, the reviewing committee may give notice in a written summary order to be followed by a full written decision. The reviewing committee's record in the case shall consist of a copy of all evidence it received or considered, including a transcript of any testimony heard by it, and its decision. The record shall also be sent to the statewide grievance committee. The reviewing committee shall forward a copy of the final decision to the complainant, the disciplinary counsel, the respondent, and the grievance panel to which the complaint was forwarded. The decision shall be a matter of public record if there was a determination by a grievance panel, a reviewing committee or the statewide grievance committee that there was probable cause that the respondent was guilty of misconduct. The reviewing committee may file a motion for extension of time not to exceed thirty days with the statewide grievance committee which shall grant the motion only upon a showing of good cause. If the reviewing committee does not complete its action on a complaint within the time provided in this section, the statewide grievance committee shall, on motion of the complainant or the respondent or on its own motion, inquire into the delay and determine the appropriate course of action. Enforcement of the final decision, including the publication of the notice of a reprimand pursuant to Section 2-54, shall be stayed for thirty days from the date of the issuance to the parties of the final decision. In the event the respondent timely submits to the statewide grievance committee a request for review of the final decision of the reviewing committee, such stay shall remain in full force and effect pursuant to Section 2-38 (b).

[(f)**]** (j) If the reviewing committee finds probable cause to believe the respondent has violated the criminal law of this state, it shall report its findings to the chief state's attorney.

[(g)**]** (k) Within thirty days of the issuance to the parties of the final decision by the reviewing committee, the respondent may submit to the statewide grievance committee a request for review of the decision. Any request for review submitted under this section must specify the basis for the request including, but not limited to, a claim or claims that the reviewing committee's findings, inferences, conclusions or decision is or are: (1) in violation of constitutional, rules of practice or statutory provisions; (2) in excess of the authority of the reviewing committee; (3) made upon unlawful procedure; (4) affected by other error of law; (5) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or (6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion and the specific basis for such claim or claims. For grievance

complaints filed on or after January 1, 2004, the respondent shall serve a copy of the request for review on disciplinary counsel in accordance with Sections 10-12 through 10-17. Within fourteen days of the respondent's submission of a request for review, disciplinary counsel may file a response. Disciplinary counsel shall serve a copy of the response on the respondent in accordance with Sections 10-12 through 10-17. No reply to the response shall be allowed.

[(h)**]** (*l*) If, after its review of a complaint pursuant to this section that was forwarded to the statewide grievance committee pursuant to Section 2-32 (i) (2), a reviewing committee agrees with a grievance panel's determination that probable cause does not exist that the attorney is guilty of misconduct and there has been no finding of probable cause by the statewide grievance committee or a reviewing committee, the reviewing committee shall have the authority to dismiss the complaint within the time period set forth in subsection (e) of this section without review by the statewide grievance committee. The reviewing committee shall file its decision dismissing the complaint with the statewide grievance committee along with the record of the matter and shall send a copy of the decision to the complainant, the respondent, and the grievance panel to which the complaint was assigned.

[(i)**]** (m) If the statewide grievance committee does not assign a complaint to a reviewing committee, it shall have one hundred and twenty days from the date the panel's determination was filed with it to render a decision dismissing the complaint, imposing sanctions and conditions as authorized by Section 2-37 or directing the disciplinary counsel to file a presentment against the respondent. The decision shall be a matter of public record. The failure of a reviewing committee to complete its action on a complaint within the period of time provided in this section shall not be cause for dismissal of the complaint. If the statewide grievance committee finds probable cause to believe that the respondent has violated the criminal law of this state, it shall report its findings to the chief state's attorney.

COMMENTARY: The above changes allow Disciplinary Counsel to add additional allegations of misconduct to grievance complaints.

APPENDIX B (032212 mins)

Sec. 2-13. Attorneys of Other Jurisdictions; Qualifications and Requirements for Admission

(a) Any member of the bar of another state or territory of the United States or the District of Columbia, who, after satisfying the state bar examining committee that his or her educational qualifications are such as would entitle him or her to take the examination in Connecticut **[**or would have entitled him or her to take the examination in Connecticut at the time of his or her admission to the bar of which he or she is a member**]**, and that at least one jurisdiction in which he or she is a member of the bar is reciprocal to Connecticut in that it would admit a member of the bar of Connecticut to its bar without examination under provisions similar to those set out in this section, shall satisfy the state bar examining committee that he or she (1) is of good moral character, is fit to practice law, and has either passed an examination in professional responsibility administered under the auspices of the bar examining committee or has completed a course in professional responsibility in accordance with the regulations of the bar examining committee; (2) has been duly licensed to practice law before the highest court of a reciprocal state or territory of the United States or in the District of Columbia if reciprocal to Connecticut and (A) has lawfully engaged in the practice of law as the applicant's principal means of livelihood in reciprocal jurisdictions for at least five of the ten years immediately preceding the date of the application and is in good standing, or (B) if the applicant has taken the bar examinations of Connecticut and failed to pass them, the applicant has lawfully engaged in the practice of law as his or her principal means of livelihood in such reciprocal jurisdiction for at least five of the ten years immediately preceding the date of the application and is in good standing, provided that such five years of practice shall have occurred subsequent to the applicant's last failed Connecticut examination; (3) is a citizen of the United States or an alien lawfully residing in the United States; (4) intends, upon a continuing basis, to practice law actively in Connecticut and/ or to supervise law students within a clinical law program at an accredited Connecticut law school while a member of the faculty of such school may be admitted by the court as an attorney without examination upon written application and the payment of such fee as the examining committee shall from time to time determine, upon compliance with the following requirements: Such application, duly verified, shall be filed with the administrative director of the bar examining committee and shall set forth his or her qualifications as hereinbefore provided. There shall be filed with such application the following affidavits: Affidavits from two attorneys who personally know the applicant certifying to his or her

good moral character and fitness to practice law and supporting, to the satisfaction of the state bar examining committee, his or her practice of law as defined under (2) of this subsection; where applicable, an affidavit from the dean of the accredited Connecticut law school at which the applicant has accepted employment attesting to the employment relationship and term; affidavits from two members of the bar of Connecticut of at least five years' standing, certifying that the applicant is of good moral character and is fit to practice law; and an affidavit from the applicant, certifying whether such applicant has a grievance pending against him or her, has ever been reprimanded, suspended, placed on inactive status, disbarred, or has ever resigned from the practice of law, and, if so, setting forth the circumstances concerning such action. Such an affidavit is not required if it has been furnished as part of the application form prescribed by the state bar examining committee.

(b) For the purpose of this rule, the ''practice of law'' shall include the following activities, if performed in a reciprocal jurisdiction after the date of the applicant's admission to that jurisdiction:

(1) representation of one or more clients in the practice of law;

(2) service as a lawyer with a state, federal, or territorial agency, including military services; however, such service for a federal agency, including military service, need not be performed in a reciprocal jurisdiction;

(3) teaching law at an accredited law school, including supervision of law students within a clinical program;

(4) service as a judge in a state, federal, or territorial court of record;

(5) service as a judicial law clerk; or

(6) any combination of the above.

(c) An attorney who, within the ten years immediately preceding the date of application, was engaged in the supervision of law students within a clinical law program of one or more accredited law schools in another jurisdiction or jurisdictions while a member of the faculty of such school or schools, whether or not any such jurisdiction is a reciprocal jurisdiction, may apply such time toward the satisfaction of the requirement of subdivision (a) (2) (A) of this section. If such time is so applied, the attorney shall file with his or her application an affidavit from the dean of the law school or schools of each such other jurisdiction attesting to the employment relationship and the period of time the applicant engaged in the supervision of law students within a clinical program at such school.

COMMENTARY: The above change brings the educational qualifications for admission without examination in line with current Connecticut Bar Examining Committee standards for admission by examination.

APPENDIX C (032212 mins)

Sec. 4-7. Personal Identifying Information to Be Omitted or Redacted from Court Records in Civil and Family Matters

(a) As used in this section, "personal identifying information" means: an individual's date of birth; mother's maiden name; motor vehicle operator's license number; Social Security number; other government issued identification number except for juris, license, permit or other business-related identification numbers that are otherwise made available to the public directly by any government agency or entity; health insurance identification number; or any financial account number, security code or personal identification number (PIN). For purposes of this section, a person's name is specifically excluded from this definition of personal identifying information.

(b) Persons who file documents with the court shall not include personal identifying information, and if any such personal identifying information is present, shall redact it from any documents filed with the court, whether filed in electronic or paper format, unless otherwise required by law or ordered by the court. <u>The party filing the redacted documents shall retain the original unredacted documents throughout the pendency of the action, any appeal period, and any applicable appellate process.</u>

(c) The responsibility for omitting or redacting personal identifying information rests solely with the person filing the document. The court or the clerk of the court need not review any filed document for compliance with this rule.

COMMENTARY: The above change makes clear that the unredacted original of a redacted document filed with the court must be retained by the filer in case the redacted information becomes an issue.

APPENDIX D (032212 mins)

Sec. 10-29. Exhibits as Part of Pleading

(a) Any plaintiff, except as otherwise provided in subsection (b) in connection with a plaintiff in the housing division as defined in Section 1-7, desiring to make a copy of any document a part of the complaint **[**may, without reciting it or annexing it,**]** shall refer to it as Exhibit A, B, C, etc.**[**, as fully as if it had been set out at length; but in such case the plaintiff shall serve a copy of such exhibit or exhibits on each other party to the action forthwith upon receipt of notice of the appearance of such party and file the original or a copy of such exhibit or exhibits in court with proof of service on each appearing party**].** No later than the return date, the plaintiff shall file the original or a copy of such exhibit or exhibits in court. The plaintiff shall serve a copy of such exhibit or exhibits on each party no later than ten days after receipt of notice of the appearance of such party, in the manner provided in Sections 10-12 through 10-17, and shall file proof of service on each appearing party with the court. **[**Where such copy or copies exceed in all two pages in length, if the plaintiff annexes them to, or incorporates them in, the complaint at full length,**]** Except as required by statute, the plaintiff shall not annex the document or documents referred to as exhibits to the complaint, or incorporate them in the complaint, at full length, and if the plaintiff does so the plaintiff shall not be allowed in costs for such part of the fees of the officer for copies of such complaint left in service, as are chargeable for copying such **[**instrument or instruments,**]** document or documents referred to as exhibits **[**except to the extent of two pages**]**.

(b) The provisions of subsection (a) shall apply to a plaintiff in the housing division, as defined in Section 1-7, desiring to make a copy of any document a part of the complaint, except that the plaintiff shall serve on each party who has appeared a copy of such exhibit or exhibits at the first court session of the matter or no later than seven days after receipt of notice of the appearance of such party, whichever is earlier.

[(b)**]** (c) When either the plaintiff or the defendant in any pleading subsequent to the complaint desires to make a copy of any document a part of his or her pleading, such party may, without reciting it therein, either annex it thereto, or refer to it therein, and shall serve it and file it in court with proof of service in the manner provided in Sections 10-12 through 10-17.

COMMENTARY: The purpose of the above changes is to clarify that documents may be referred to as exhibits in a complaint but should not be attached to the complaint or incorporated in it, but rather filed separately by the plaintiff and served on each appearing defendant in the same manner as the service of any other document subsequent to the service of the original complaint. A provision is added to require the exhibits to be filed with the court by no later than

the return date so that the public record is complete. The provisions of this section do not apply to certificates of good faith required by Section 52-190a of the General Statutes which must be attached to the complaint or to any other documents required by statute to be attached to the complaint.

APPENDIX E (032212 mins)

(NEW) Sec. 30a-9. Appeals in Delinquency and Family With Service Needs Proceedings

The rules governing other appeals shall, so far as applicable, be the rules for all proceedings in delinquency and family with service needs appeals.

COMMENTARY: The above change clarifies that the regular appellate rules apply to appeals from delinquency and family with service needs matters, as those are not defined as child protection matters in new Chapter 79a of the Rules of Appellate Procedure.

Sec. 35a-21. Appeals in Child Protection Matters

(a) Unless a different period is provided by statute, **[**A**]**appeals from final judgments or decisions of the superior court in **[**juvenile**]** child protection matters shall be taken within twenty days from the issuance of notice of the rendition of the judgment or decision from which the appeal is taken or within twenty days from the granting of any extension to appeal pursuant to Section 66-1 (a) **[**in the manner provided by the rules of appellate procedure**]**.

(b) If an indigent party, child or youth wishes to appeal a final decision, the trial **[**counsel**]** attorney shall **[**immediately request an expedited transcript from the court reporter, the cost of which shall be billed to the Public Defender Services Commission. Trial counsel shall either file the appeal within twenty days or file a timely motion to extend time in which to take an appeal and request the appointment of counsel to review the matter for purposes of appeal**]** file an appeal or seek review by an appellate review attorney in accordance with the rules for appeals in child protection matters in Chapter 79a. **[**If t**]**The reviewing attorney determin**[**es**]**ing whether there is a nonfrivolous ground for appeal, **[**such attorney**]** shall file a**[**n**]** limited ‘‘in addition to’’ appearance with the trial court for purposes of reviewing the merits of an appeal. If the reviewing attorney determines there is merit to an appeal, such attorney shall file a limited “in addition to” appearance for the appeal with the appellate court. The trial attorney shall remain in the underlying juvenile matters case in order to handle ongoing procedures before the local or regional juvenile court. **[**Counsel**]** Any attorney who file**[**d the**]**s an appeal or file**[**d**]**s an appearance in the appellate court after **[**the**]** an appeal **[**was**]** has been filed shall be deemed to have appeared in the trial court for the limited purpose of prosecuting or defending the appeal. **[**If the reviewing attorney determines that there is no merit to an appeal, such attorney shall make this known to the judicial authority as soon as practicable, and the party will be informed by the clerk forthwith that the party has the balance of the extended time to appeal.**]**

(c) Unless a new appeal period is created pursuant to Section 79a-2 (a), **[**T**]**the time to take an appeal shall not be extended past forty days, (the original twenty days plus one twenty

day extension for appellate review), from the date of the issuance of notice of the rendition of the judgment or decision.

COMMENTARY: The above changes are made in light of new Sections 79a-2 and 79a-3 of the Rules of Appellate Procedure.

APPENDIX F (032212 mins)

Sec. 25-61. Family Division

The family services unit shall, at the request of the judicial authority, provide assistance with regard to issues concerning custody, visitation, finances, mediation, case management and such other matters as the judicial authority may direct, including, but not limited to, an evaluation of any party or any child in a family proceeding. If an evaluation of a party or child is requested by the judicial authority, counsel for the party or child shall not initiate contact with the evaluator, unless otherwise ordered by the judicial authority, until the evaluation is filed with the clerk pursuant to Section 25-60 (b).

COMMENTARY: The above change clarifies that counsel for the party or child being evaluated shall not initiate contact with the evaluator, unless the court orders otherwise, until the evaluation is filed with the clerk. This parallels language in Section 25-60A (c) concerning court-ordered evaluations by private evaluators.

APPENDIX G (032212 mins)

Sec. 42-8. —Communications between Parties and Jurors

(a) No party, and no attorney, employee, representative or agent of any party or attorney, shall contact, communicate with or interview any juror or alternate juror, or any relative, friend or associate of any juror or alternate juror concerning the deliberations or verdict of the jury or of any individual juror or alternate juror in any action:

(1) during trial until the jury has returned a verdict and/or the jury has been dismissed by the judicial authority, except upon leave of the judicial authority, which shall be granted only upon **[**the**]** a showing of good cause**[**. A violation of this section may be treated as a contempt of court, and may be punished accordingly.**]**; or

(2) in any manner after trial which subjects the juror to harassment, misrepresentation, duress or coercion.

(b) After trial jurors have no obligation to speak to any person about any case and may refuse all interviews or requests to discuss the case, except as ordered by the court. However, jurors shall report to the court any extraneous prejudicial information improperly brought to the jury's attention, any outside influence improperly brought to bear upon any juror, or whether the verdict reported was the result of a clerical mistake.

(c) A violation of subsection (a) may, where appropriate, be treated as a contempt of court, and may be punished accordingly. The judicial authority shall have continuing supervision over communications with jurors, even after a trial has been completed.

COMMENTARY: The above revisions have been added to provide additional protection of juror privacy. The revised language is taken from United States District Court District of Connecticut Local Rules of Civil Procedure 83.5 (1)(b) and (d) and 83.5 (4).