

Minutes of the Meeting
Rules Committee
January 14, 2008

On Monday, January 14, 2008 the Rules Committee met in the Attorneys' Conference Room from 2:00 p.m. to 3:23 p.m.

Members in attendance were:

HON. PETER T. ZARELLA, CHAIR
HON. THOMAS J. CORRADINO
HON. RICHARD W. DYER
HON. ROLAND D. FASANO
HON. C. IAN MCLACHLAN
HON. BARRY C. PINKUS
HON. PATTY JENKINS PITTMAN
HON. MICHAEL R. SHELDON

Judge Richard A. Robinson was not in attendance at this meeting.

Also in attendance was Carl E. Testo, Counsel to the Rules Committee.

Agenda

1. The Committee approved, by a vote of seven in favor and one opposed, the minutes of the meeting held on December 17, 2007.

Judge Sheldon noted that Item 6 of the minutes states that the commentary to Section 13-30 that was approved by the Rules Committee at its December meeting would be submitted to public hearing and then forwarded to the judges for their information and comment at the annual meeting. Judge Sheldon stated that he believes the commentary should be submitted to the judges for adoption. He thereupon made the following motion: that the commentary to Practice Book Section 13-30 that was approved by the Rules Committee at its December meeting be submitted to a vote of the judges at the June annual meeting.

After further discussion, Judge Sheldon withdrew this motion and agreed instead to submit to the Rules Committee a revision to Section 13-30 (d) which will include language from the commentary that was approved by the Rules Committee.

2. The Committee considered a proposal by Attorney Joseph J. Del Ciampo to amend Rules 7.4A and 7.4C of the Rules of Professional Conduct concerning certification of lawyers as specialists.

After discussion, the Committee unanimously voted to submit to public hearing the revisions to Rules 7.4A and 7.4C of the Rules of Professional Conduct as set forth in Appendix A attached hereto.

3. The Rules Committee considered a recommendation by the Legal Special Screening Committee that the application of the National Association of Counsel for Children (NACC) to be a certifier in the specialty of child welfare law be approved.

After discussion, the Rules Committee, with Judge Dyer abstaining, unanimously approved the NACC's application by the following vote:

The Rules Committee, after reviewing the report of the Legal Specialization Screening Committee dated December 28, 2007, recommending approval of the application of the National Association of Counsel for Children for authority to certify lawyers as specialists in the field of child welfare law, unanimously approves the National Association of Counsel for Children for a five year period commencing January 14, 2008 as qualified to certify lawyers as specialists in that field. This approval is subject to the condition that the National Association of Counsel for Children is required to notify promptly the Legal Specialization Screening Committee of any material changes in the information contained in its application or in its methodology for certifying lawyers as such specialists during the term of this approval.

4. At its December meeting, the Rules Committee considered a proposal by the Civil Division Task Force to amend Section 13-4 concerning the discovery of experts. The Committee decided at that time that certain further revisions should be made and asked the undersigned to incorporate them into the proposal and submit the draft to the Committee for consideration.

At this meeting the Committee considered the further revisions to Section 13-4 submitted by the undersigned.

After discussion, the Committee made an additional revision to the proposal and unanimously voted to submit to public hearing the revisions to Section 13-4 as set forth in Appendix B attached hereto.

5. At its December meeting, the Rules Committee approved for public hearing proposed revisions to Section 25-2 that were submitted by Attorney Joseph Del Ciampo. At this meeting they considered a memo from Attorney Del Ciampo stating that when he proposed the

amendments he was not aware that on June 29, 2007 the judges had adopted changes to Section 25-2, to become effective January 1, 2008, that are similar to those that he proposed at the December meeting. He therefore requested the Committee to repeal the changes to Section 25-2 that it approved at its December meeting and to approved proposed revisions to that section that must still be made with regard to civil unions.

After discussion, the Committee unanimously voted to repeal the amendments to Section 25-2 that it approved at its December meeting and to approve for public hearing the revisions to Section 25-2 as set forth in Appendix C attached hereto.

6. The Rules Committee discussed proposed revisions to the juvenile rules submitted by Judge Christine Keller on behalf of the Juvenile Task Force. The Committee agreed to ask Judge Keller to attend its next meeting to discuss these proposals.

Justice Zarella distributed to the Committee a letter he received from the Center for Children's Advocacy concerning the proposed revision to the juvenile rules.

7. The Committee tabled a proposal by Attorney James F. Sullivan to amend the rules concerning class actions and a report of the Civil Division Task Force concerning this matter, including a proposal by the Task Force to amend the class action rules.

8. Justice Zarella discussed with the Committee the proposals submitted by Judge Pellegrino on behalf of the Civil Commission to amend the civil pleading rules. The Rules Committee agreed with his suggestion that Judge Marshall Berger and Attorneys Gallagher and Dorney, who were part of the development of the Commission's proposals, be invited to attend the February meeting to address the Rules Committee concerning the proposals.

9. The Committee discussed a proposal by Greater Hartford Legal Aid to amend Rule 1.14 of the Rules of Professional Conduct to conform with recent changes in Connecticut's conservatorship laws.

At its October meeting the Rules Committee had referred the proposal for comment to Chief Child Protection Attorney Carolyn Signorelli and to the CBA Committee on Professional Ethics, which is chaired by Attorney Wick Chambers. At the December meeting I advised the Committee that I had received a response from Attorney Signorelli, but had not yet received one from Attorney Chambers and the Committee asked me to contact Attorney Chambers and let him know that it plans to consider this proposal at its January 14 meeting.

At this meeting I advised the Committee that Attorney Chambers stated that his

committee will be considering these matters at their January and February meetings and that he would try to forward a report to the Rules Committee in time for it to be considered at the February 25 meeting. The Rules Committee thereupon tabled further consideration of this proposal to its February meeting.

10. The Rules Committee will meet with the Judiciary Committee on February 25 at 9:30 or 10:00 a.m. and will conduct its own meeting following that meeting.

Respectfully submitted,

Carl E. Testo
Counsel to the Rules Committee

CET:pt
Attachments

APPENDIX A (011408 mins)

Rule 7.4A. Certification as Specialist

(a) Except as provided in Rule 7.4, a lawyer shall not state or imply that he or she is a specialist in a field of law unless the lawyer is currently certified as a specialist in that field of law by a board or other entity which is approved by the Rules Committee of the superior court of this state. Among the criteria to be considered by the Rules Committee in determining upon application whether to approve a board or entity as an agency which may certify lawyers practicing in this state as being specialists, shall be the requirement that the board or entity certify specialists on the basis of published standards and procedures which (1) do not discriminate against any lawyer properly qualified for such certification, (2) provide a reasonable basis for the representation that lawyers so certified possess special competence, and (3) require redetermination of the special qualifications of certified specialists after a period of not more than five years.

(b) Upon certifying a lawyer practicing in this state as being a specialist, the board or entity that certified the lawyer shall notify the Statewide Grievance Committee of the name and juris number of the lawyer, the specialty field in which the lawyer was certified, the date of such certification and the date such certification expires.

~~[(b)]~~(c) A lawyer shall not state that he or she is a certified specialist if the lawyer's certification has terminated, or if the statement is otherwise contrary to the terms of such certification.

~~[(c)]~~(d) Certification as a specialist may not be attributed to a law firm.

~~[(d)]~~(e) Lawyers may be certified as specialists in the following fields of law:

(1) Administrative law: The practice of law dealing with states, their political subdivisions, regional and metropolitan authorities and other public entities including, but not limited to, their rights and duties, financing, public housing and urban development, the rights of public employees, election law, school law, sovereign immunity, and constitutional law; practice before federal and state courts and governmental agencies.

(2) Admiralty: The practice of law dealing with all matters arising under the carriage of goods by sea act (COGSA), Harter Act, Jones Act, and federal and state maritime law including, but not limited to, the carriage of goods, collision and other maritime torts, general average, salvage, limitation of liability, ship financing, ship subsidies, the rights of injured sailors and longshoremen; practice before federal and state courts and governmental agencies (including the Federal Maritime Commission).

(3) Antitrust: The practice of law dealing with all matters arising under the Sherman Act, Clayton Act, Federal Trade Commission Act, Hart-Scott-Rodino Antitrust Improvements Act and state antitrust statutes including, but not limited to, restraints of trade, unfair competition, monopolization, price discrimination, restrictive practices; practice before federal and state courts and governmental agencies.

(4) Appellate practice: The practice of law dealing with all procedural and substantive aspects of civil and criminal matters before federal and state appeals courts including, but not limited to, arguments and the submission of briefs.

(5) Business Bankruptcy: The practice of law dealing with all aspects of the United States Bankruptcy Code when the debtor was engaged in business before the institution of a Chapter 7, 9, or 11 proceeding. This includes, but is not limited to,

business liquidations, business reorganizations, and related adversary and contested proceedings.

(6) Child Welfare Law: The practice of law representing children, parents or the government in all child protection proceedings including emergency, temporary custody, adjudication, disposition, foster care, permanency planning, termination, guardianship, and adoption. Child Welfare Law does not include representation in private child custody and adoption disputes where the state is not a party.

(7) Consumer Bankruptcy: The practice of law dealing with all aspects of the United States Bankruptcy Code when the debtor was not engaged in business before the institution of a Chapter 7, 12, or 13 proceeding. This includes, but is not limited to, liquidations, wage earner plans, family farmers and related adversary and contested proceedings.

(8) Civil rights and discrimination: The practice of law dealing with all matters arising under federal and state law relating to proper treatment in the areas of, among others, public accommodations, voting, employment, housing, administration of welfare and social security benefits; practice before federal and state courts and governmental agencies.

(9) Civil trial practice: The practice of law dealing with representation of parties before federal or state courts in all noncriminal matters.

(10) Commercial transactions: The practice of law dealing with all aspects of commercial paper, contracts, sales and financing, including, but not limited to, secured transactions.

(11) Consumer claims and protection: The practice of law dealing with all aspects of consumer transactions including, but not limited to, sales practices, credit transactions, secured transactions and warranties; all matters arising under the Equal Credit Opportunity Act, the Fair Credit Reporting Act, the Magnuson-Moss Act, the Truth in Lending Act, state statutes such as the "Little FTC" acts, and other analogous federal and state statutes.

(12) Corporate and business organizations: The practice of law dealing with all aspects of the formation, operation and dissolution of corporations, partnerships (general and limited), agency and other forms of business organizations.

(13) Corporate finance and securities: The practice of law dealing with all matters arising under the Securities Act of 1933, Securities Exchange Act of 1934, Investment Advisors Act (or the Federal Securities Code, if adopted) and other federal and state securities statutes; financing corporate activities; mergers and acquisitions; practice before the Securities and Exchange Commission and state securities commissions.

(14) Criminal: The practice of law dealing with the prosecution or representation of persons accused of crimes at all stages of criminal proceedings in federal or state courts including, but not limited to, the protection of the accused's constitutional rights.

(15) Environmental: The practice of law dealing with all aspects of the regulation of environmental quality by both federal and state governments; control of air pollution, water pollution, noise pollution, toxic substances, pesticides, and civilian uses of nuclear energy; solid waste/ resource recovery; all matters arising under the National Environmental Policy Act, Clean Air Act, Federal Water Pollution Control Act, Noise Control Act, Solid Waste Disposal Act, Toxic Substance Control Act and other federal

and state environmental statutes; practice before federal and state courts and governmental agencies.

(16) Estate planning and probate: The practice of law dealing with all aspects of the analysis and planning for the conservation and disposition of estates, giving due consideration to the applicable tax consequences, both federal and state; the preparation of legal instruments in order to effectuate estate plans; administering estates, including tax related matters, both federal and state.

(17) Family and matrimonial: The practice of law dealing with all aspects of antenuptial and domestic relationships, separation and divorce, alimony and child support, child custody matters and adoption, giving due consideration to the tax consequences, and court proceedings relating thereto.

(18) Government contracts and claims: The practice of law dealing with all aspects of the negotiation and administration of contracts with federal and state governmental agencies.

(19) Immigration and naturalization: The practice of law dealing with obtaining and retaining permission to enter and remain in the United States including, but not limited to, such matters as visas, change of status, deportation and naturalization; representation of aliens before courts and governmental agencies; protection of aliens' constitutional rights.

(20) International: The practice of law dealing with all aspects of the relations among states, international business transactions, international taxation, customs and trade law and foreign and comparative law.

(21) Labor: The practice of law dealing with all aspects of employment relations (public and private) including, but not limited to, unfair labor practices, collective bargaining, contract administration, the rights of individual employees and union members, employment discrimination; all matters arising under the National Labor Relations Act (Wagner Act), Labor Management Relations Act (Taft-Hartley Act), Labor Management Reporting and Disclosure Act (Landrum-Griffin Act), Fair Labor Standards Act, Title VII of The Civil Rights Act of 1964, Occupational Safety and Health Act (OSHA), Employee Retirement Income Security Act (ERISA), other federal statutes and analogous state statutes; practice before the National Labor Relations Board, analogous state boards, federal and state courts, and arbitrators.

(22) Military: The practice of law dealing with the presentation of parties before courts-martial and other military tribunals in disputes arising under the uniform code of military justice; the representation of veterans and their dependents in seeking government benefits due to them on account of military service; handling civil law problems of the military.

(23) Natural Resources: The practice of law dealing with all aspects of the regulation of natural resources such as coal, oil, gas, minerals, water and public lands; the rights and responsibilities relating to the ownership and exploitation of such natural resources.

(24) Patent, trademark and copyright: The practice of law dealing with all aspects of the registration, protection and licensing of patents, trademarks or copyrights; practice before federal and state courts in actions for infringement and other actions; the prosecution of applications before the United States Patent and Trademark Office; counseling with regard to the law of unfair competition as it relates to patents, trademarks and copyrights.

(25) (A) Residential Real Estate: The practice of law dealing with all aspects of real property transactions involving single one-to-four family residential dwellings when the client uses such dwelling or expresses in writing the intent to use such dwelling as the client's primary or other residence including, but not limited to, real estate conveyances, title searches and property transfers, leases, condominiums, cooperatives, and other common interest communities, planned unit developments, mortgages, condemnation and eminent domain, zoning and land use planning, property taxes, and determination of property rights. (B) Commercial Real Estate: The practice of law dealing with all aspects of real property transactions except for residential real estate as defined in subparagraph (A) of this subdivision, including, but not limited to, real estate conveyances, title searches and property transfers, leases, condominiums, cooperatives and other common interest communities, planned unit developments, mortgages, condemnation and eminent domain, zoning and land use planning, property taxes, real estate development and financing (with due consideration to tax and securities consequences) and determination of property rights.

(26) Taxation: The practice of law dealing with all matters arising under the Internal Revenue Code, Employee Retirement Income Security Act (ERISA), state and local tax laws and foreign tax laws, including counseling with respect thereto; practice before federal and state courts and governmental agencies.

(27) Workers' Compensation: The practice of law dealing with the representation of parties before federal and state agencies, boards and courts in actions to determine eligibility for workers' compensation, and disability.

AMENDMENT NOTES: The changes to this rule require that upon certifying a lawyer as a specialist the certifying board or entity shall notify the Statewide Grievance Committee of the basic information pertinent to such certification.

Rule 7.4C. Application by Board or Entity to Certify Lawyers as Specialists

Any board or entity seeking the approval of the Rules Committee of the superior court for authority to certify lawyers practicing in this state as being specialists in a certain field or fields of law as set forth in Rule 7.4A [(d)](e), shall file an original and six copies of its application with the Legal Specialization Screening Committee pursuant to Rule 7.4B.

AMENDMENT NOTES: The change to this rule reflects the change in the lettering of Section 7.4A above.

Appendix B (011408 mins)

Sec. 13-4. Scope of Discovery – Experts

~~(A)~~(a) A party shall disclose each person who may be called by that party to testify as an expert witness at trial, and all documents that may be offered in evidence in lieu of such expert testimony, in accordance with this Section. The requirements of Section 13-15 shall apply to disclosures made under this section.

~~(B)~~(b) A party shall file with the court and serve upon counsel a disclosure of expert witnesses which identifies the name, address and employer of each person who may be called by that party to testify as an expert witness at trial, whether through live testimony or by deposition. In addition, the disclosure shall include the following information:

(1) Except as provided in ~~section (B)~~ subdivision (b) (2) of this Section, the field of expertise and the subject matter on which the witness is expected to offer expert testimony; the expert opinions to which the witness is expected to testify; and the substance of the grounds for each such expert opinion. Disclosure of the information required under this subsection may be made by making reference in the disclosure to, and contemporaneously producing to all parties, a written report of the expert witness containing such information.

(2) If the witness to be disclosed hereunder is a health care provider who rendered care or treatment to the plaintiff, and the opinions to be offered hereunder are based upon that provider's care or treatment, then the disclosure obligations under this Section may be satisfied by disclosure to the parties of the medical records and reports of such care or treatment. A witness disclosed under this subsection shall be permitted to offer expert opinion testimony at trial as to any opinion as to which fair notice is given in the disclosed medical records or reports. Expert testimony regarding any opinion as to which fair notice is not given in the disclosed medical records or reports shall not be permitted unless the opinion is disclosed in accordance with ~~section~~ subdivision ~~(B)~~ (b) (1) of this Section.

(3) Except for an expert witness who is a health care provider who rendered care or treatment to the plaintiff, or unless otherwise ordered by the judicial authority or agreed upon by the parties, the party disclosing an expert witness shall, within thirty ~~(30)~~ days of such disclosure, produce to all other parties all materials obtained, created and/or relied upon by the expert in connection with his or her opinions in the case. If any such materials have already been produced to the other parties in the case, then a list of such materials, made with sufficient particularity

that the materials can be easily identified by the parties, shall satisfy the production requirement hereunder with respect to those materials.

(4) Nothing in this Section shall prohibit any witness disclosed hereunder from offering non-expert testimony at trial.

~~(C)~~(c) (1) Unless otherwise ordered by the judicial authority upon motion, a party may take the deposition of any expert witness disclosed pursuant to subdivision ~~(B)~~ (b) of this section in the manner prescribed in Section 13-26 et seq. governing deposition procedure generally. Nothing contained in ~~subdivision~~ subsection ~~(B)~~ (b) of this Section shall impair the right of any party from exercising that party's rights under the Rules of Practice to subpoena or request production of any materials, to the extent otherwise discoverable, in addition to those produced under ~~subdivision~~ subsection ~~(B)~~ (b) of this Section, in connection with the deposition of any expert witness.

(2) Unless otherwise ordered by the judicial authority for good cause shown, or agreed upon by the parties, the fees and expenses of the expert witness for any such deposition, excluding preparation time, shall be paid by the party or parties taking the deposition. Unless otherwise ordered, the fees and expenses hereunder shall include only ~~(a)~~ (A) a reasonable fee for the time of the witness to attend the deposition itself and the witness's travel time to and from the place of deposition; and ~~(b)~~ (B) the reasonable expenses actually incurred for travel to and from the place of deposition and lodging, if necessary. If the parties are unable to agree on the fees and expenses due under this subsection, the amount shall be set by the judicial authority, upon motion.

~~(D)~~ (d) (1) A party shall file with the court a ~~disclosure list~~ of ~~each~~ all documents or records that the party expects to submit in evidence pursuant to any statute or rule permitting admissibility of documentary evidence in lieu of the live testimony of an expert witness. ~~The disclosure made hereunder shall list the documents that the party expects to offer in evidence with sufficient particularity that the documents can be easily identified by the other parties. The list filed hereunder shall identify such documents or records with sufficient particularity that they shall be easily identified by the other parties. The parties shall not file with the court a copy of the documents or records on such list.~~

(2) Unless otherwise ordered by the judicial authority upon motion, a party may take the deposition of any expert witness whose records are disclosed pursuant to subdivision ~~(D)~~ (d) (1) of this Section in the manner prescribed in Section 13-26 et seq. governing deposition procedure generally. Nothing contained in ~~subdivision subsection ~~(D)~~ (d)~~ of this section shall impair the right of any party from exercising that party's rights under the ~~R~~rules of ~~P~~practice to subpoena or request production of any materials, to the extent otherwise discoverable, in addition to those produced under ~~subdivision subsection ~~(D)~~ (d)~~, in connection with the deposition of any expert witness.

(3) Unless otherwise ordered by the judicial authority for good cause shown, or agreed upon by the parties, the fees and expenses of the expert witness for any such deposition, excluding preparation time, shall be paid by the party or parties taking the deposition. Unless otherwise ordered, the fees and expenses hereunder shall include only ~~(a)~~ (A) a reasonable fee for the time of the witness to attend the deposition itself and the witness's travel time to and from the place of deposition; and ~~(b)~~ (B) the reasonable expenses actually incurred for travel to and from the place of deposition and lodging, if necessary. If the parties are unable to agree on the fees and expenses due under this subsection, the amount shall be set by the judicial authority, upon motion.

~~(E)~~ (e) If any party expects to call as an expert witness at trial any person previously disclosed by any other party under subsection ~~(B)~~ (b) hereof, the newly disclosing party shall file a notice of disclosure stating that the party adopts the expert disclosure already on file, or a specified part thereof. Such notice shall be filed within the time parameters set forth in subsection ~~(G)~~ (g).

~~(F)~~ (f) A party may discover facts known or opinions held by an expert who had been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial only as provided in Section 13-11 or upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.

~~(G)~~ (g) Unless otherwise ordered by the judicial authority the following ~~timing parameters schedule~~ shall govern the expert discovery required under subsection ~~(B)~~ (b), ~~(C)~~ (c), ~~(D)~~ (d) and ~~(E)~~ (e) of this Section.

(1) Within one hundred and twenty (120) days after the Return Date of any civil action, or at such other time as the court may order, the parties shall submit to the court for its approval a proposed “Schedule For Expert Discovery” which, upon approval by the court, shall govern the timing of expert discovery in the case. The deadlines proposed by the parties shall be realistic and reasonable, taking into account the nature and relative complexity of the case, the need for predicate discovery, and the estimated time until the case may be exposed for trial. If the parties are unable to agree on discovery deadlines, they shall so indicate on the proposed Schedule for Expert Discovery, in which event the court shall convene a scheduling conference to set those deadlines.

(2) If a party is added or appears in a case after the proposed Schedule for Expert Discovery is filed, then an amended proposed Schedule for Expert Discovery shall be prepared and filed for approval by the court within sixty (60) days after such a new party appears, or at such other time as the court may order.

(3) Unless otherwise ordered by the Court, disclosure of any expert witness under subsection (E) (e) hereof shall be made within thirty (30) days of the event giving rise to the need for that party to adopt the expert disclosure as its own (e.g., the withdrawal or dismissal of the party originally disclosing the expert).

(4) Any request for modification of the Approved Schedule For Expert Discovery or of any other time limitation under this Section shall be made by motion stating the reasons therefore, and shall be granted if (a) (A) agreed upon by the parties and will not interfere with the trial date; or (b) (B) (1) (i) the requested modification will not cause undue prejudice to any other party; (2) (ii) the requested modification will not cause undue interference with the trial schedule in the case; and (3) (iii) and the need for the requested modification was not caused by bad faith delay of disclosure by the party seeking the modification.

(H) (h) A judicial authority may, after a hearing, impose sanctions on a party for failure to comply with the requirements of this Section. An order precluding the testimony of an expert witness may be entered only upon a finding that (a) (1) the sanction of preclusion, including any consequence thereof on the sanctioned party’s ability to prosecute or defend the case, is proportional to the non-compliance at issue, and (b) (2) the non-compliance at issue cannot adequately be addressed by a less severe sanction or combination of sanctions.

~~Discovery of facts known and opinions held by experts, otherwise discoverable under the provisions of Section 13-2 and acquired or developed in anticipation of litigation or for trial, may be obtained only as follows:~~

~~(1) (A) A party may through interrogatories require any other party to identify each person whom the other party expects to call as an expert witness at trial, to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. (B) Unless otherwise ordered by the judicial authority upon motion, a party may take the deposition of any expert witness disclosed pursuant to subdivision (1) (A) of this rule in the manner prescribed in Section 13-26 et seq. governing deposition procedure generally.~~

~~(2) A party may discover facts known or opinions held by an expert who had been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial only as provided in Section 13-11 or upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.~~

~~(3) Unless manifest injustice would result, (A) the judicial authority shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under subdivisions (1) (B) and (2) of this rule; and (B) with respect to discovery obtained under subdivision (1) (B) of this rule the judicial authority may require, and with respect to discovery obtained under subdivision (2) of this rule the judicial authority shall require, the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert.~~

~~(4) In addition to and notwithstanding the provisions of subdivisions (1), (2) and (3) of this rule, any plaintiff expecting to call an expert witness at trial shall disclose the name of that expert, the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion, to all other parties within a reasonable time prior to trial. Each defendant shall disclose the names of his or her experts in like manner within a reasonable time from the date the plaintiff discloses experts, or, if the plaintiff fails to disclose experts, within a reasonable time prior to trial. If disclosure of the name of any expert expected to testify at trial is not made in accordance~~

~~with this subdivision, or if an expert witness who is expected to testify is retained or specially employed after a reasonable time prior to trial, such expert shall not testify if, upon motion to preclude such testimony, the judicial authority determines that the late disclosure (A) will cause undue prejudice to the moving party; or (B) will cause undue interference with the orderly progress of trial in the case; or (C) involved bad faith delay of disclosure by the disclosing party. Once the substance of any opinion or opinions of an expert witness who is expected to testify at trial becomes available to the party expecting to call that expert witness, disclosure of expert witness information shall be made in a timely fashion in response to interrogatory requests pursuant to subdivision (1) (A) of this rule, and shall be supplemented as required pursuant to Section 13-15. Any expert witness disclosed pursuant to this rule within six months of the trial date shall be made available for the taking of that expert's deposition within thirty days of the date of such disclosure. In response to any such expert disclosure, any other party may disclose the same categories of information with respect to expert witnesses previously disclosed or a new expert on the same categories of information who are expected to testify at trial on the subject for that party. Any such expert or experts shall similarly be made available for deposition within thirty days of their disclosure. Nothing contained in this rule shall preclude an agreement between the parties on disclosure dates which are part of a joint trial management order.~~

APPENDIX C (011408 mins)

Sec. 25-2. Complaints for Dissolution of Marriage or Civil Union, Legal Separation, or Annulment

(a) Every complaint in a dissolution of marriage or civil union, legal separation or annulment action shall state the date and place, including the city or town, of the marriage or civil union and the facts necessary to give the court jurisdiction.

(b) Every such complaint shall also state whether there are minor children issue of the marriage or minor children of the civil union and whether there are any other minor children born to the wife since the date of marriage of the parties, or born to a party to the civil union since the date of the civil union, the name and date of birth of each, and the name of any individual or agency presently responsible by virtue of judicial award for the custody or support of any child. These requirements shall be met whether a child is issue of the marriage or not, whether a child is born to a party of the civil union or not, and whether custody of children is sought in the action or not. In every case in which the state of Connecticut or any town thereof is contributing or has contributed to the support or maintenance of a party or child of said party, such fact shall be stated in the complaint and a copy thereof served on the attorney general or town clerk in accordance with the provisions of Sections 10-12 through 10-17. Although the attorney general or town clerk shall be a party to such cases, he or she need not be named in the writ of summons or summoned to appear.

(c) The complaint shall also set forth the plaintiff's demand for relief and the automatic orders as required by Section 25-5.

COMMENTARY: The change to this section clarifies that a complaint in a dissolution of civil union action shall state the place, including the city or town, of the civil union.