Practice Book Revisions
Being Considered by the
Rules Committee of the Superior Court

Superior Court Rules
Rules of Professional Conduct
Forms

Including Commentaries to Proposals

April 29, 2014

NOTICE

Public Hearing on Practice Book Revisions Being Considered by the Rules Committee of the Superior Court

On May 19, 2014, at 2:00 p.m., the Rules Committee of the Superior Court will conduct a public hearing in the Supreme Court in Hartford for the purpose of receiving comments concerning the following Practice Book revisions which are being considered by the Committee. These proposed revisions have also been posted on the Judicial Branch website at http://www.jud.ct.gov/pb.htm.

Written comments may be forwarded to the Rules Committee at the following address:

Rules Committee of the Superior Court
Attn: Joseph J. Del Ciampo, Counsel
P.O. Box 150474
Hartford, CT 06115-0474

Written comments must be received by May 15, 2014.

Each speaker at the public hearing will be limited to five minutes. Anyone who believes that they cannot cover their remarks within that time period may submit written comments to the Rules Committee. If written comments are submitted, ten copies should be provided.

Wheelchair access is located in the rear of the building, accessible from the staff parking lot between Lafayette and Oak Streets. There are a limited number of handicap parking spots in the gated staff lot, which is accessible from Oak Street. Use the intercom at the gate to speak to security about the availability of parking. Once at the accessible door, use the intercom to request entry from security. If you would like to attend the meeting and need an accommodation under the

Americans with Disabilities Act, please email the Rules Committee at Joseph.DelCiampo@jud.ct.gov before May 15.

Hon. Dennis G. Eveleigh
Chairman, Rules Committee

INTRODUCTION

Contained herein are amendments that are being considered to the Practice Book. These amendments are indicated by brackets for deletions and underlines for added language. The designation ''NEW'' is printed with the title of each proposed new rule.

Rules Committee of the Superior Court

PROPOSED AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT

Rule 1.1. Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

COMMENTARY: **Legal Knowledge and Skill**. In determining whether a lawyer employs the requisite knowledge and skill in a particular matter, relevant factors include the relative complexity and specialized nature of the matter, the lawyer's general experience, the lawyer's training and experience in the field in question, the preparation and study the lawyer is able to give the matter and whether it is feasible to refer the matter to, or associate or consult with, a lawyer of established competence in the field in question. In many instances, the required proficiency is that of a general practitioner. Expertise in a particular field of law may be required in some circumstances.

A lawyer need not necessarily have special training or prior experience to handle legal problems of a type with which the lawyer is unfamiliar. A newly admitted lawyer can be as competent as a practitioner with long experience. Some important legal skills, such as the analysis of precedent, the evaluation of evidence and legal drafting, are required in all legal problems. Perhaps the most fundamental legal skill consists of determining what kind of legal problems a situation may involve, a skill that necessarily transcends any particular specialized knowledge. A lawyer can provide adequate representation in a wholly novel field through necessary study. Competent representation can

also be provided through the association of a lawyer of established competence in the field in question.

In an emergency a lawyer may give advice or assistance in a matter in which the lawyer does not have the skill ordinarily required where referral to or consultation or association with another lawyer would be impractical. Even in an emergency, however, assistance should be limited to that reasonably necessary in the circumstances, for ill-considered action under emergency conditions can jeopardize the client's interest. A lawyer may accept representation where the requisite level of competence can be achieved by reasonable preparation. This applies as well to a lawyer who is appointed as counsel for an unrepresented person. See also Rule 6.2.

Thoroughness and Preparation. Competent handling of a particular matter includes inquiry into and analysis of the factual and legal elements of the problem, and use of methods and procedures meeting the standards of competent practitioners. It also includes adequate preparation. The required attention and preparation are determined in part by what is at stake; major litigation and complex transactions ordinarily require more extensive treatment than matters of lesser complexity and consequence. An agreement between the lawyer and the client regarding the scope of the representation may limit the matters for which the lawyer is responsible. See Rule 1.2 (c).

Retaining or Contracting with Other Lawyers. Before a lawyer retains or contracts with other lawyers outside the lawyer's own firm to provide or assist in the provision of legal services to a client, the lawyer should ordinarily obtain informed consent from the client and must reasonably believe that the other lawyers' services will contribute

to the competent and ethical representation of the client. See also Rules 1.2 (allocation of authority), 1.4 (communication with client), 1.5 (b) (scope of representation, basis or rate of fee and expenses), 1.5 (e) (fee sharing), 1.6 (confidentiality), and 5.5 (a) (unauthorized practice of law). Client consent may not be necessary when a nonfirm lawyer is hired to perform a discrete and limited task and the task does not require the disclosure of information protected by Rule 1.6. The reasonableness of the decision to retain or contract with other lawyers outside the lawyer's own firm will depend upon the circumstances, including the education, experience and reputation of the nonfirm lawyers; the nature of the services assigned to the nonfirm lawyers; and the legal protections, professional conduct rules, and ethical environments of the jurisdictions in which the services will be performed, particularly relating to confidential information.

When lawyers from more than one law firm are providing legal services to the client on a particular matter, the lawyers should consult with each other and the client about the scope of their respective representations and the allocation of responsibility among them. See Rule 1.2. When making allocations of responsibility in a matter pending before a tribunal, lawyers and parties may have additional obligations that are a matter of law beyond the scope of these Rules.

Maintaining Competence. To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.

AMENDMENT NOTE: The revisions to this rule and to Rule 5.3 include guidance for lawyers on outsourcing and are prompted by the ABA's Commission on Ethics 20/20.

Rule 1.2. Scope of Representation and Allocation of Authority between Client and Lawyer

(a) Subject to subsections (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify. Subject to revocation by the client and to the terms of the contract, a client's decision to settle a matter shall be implied where the lawyer is retained to represent the client by a third party obligated under the terms of a contract to provide the client with a defense and indemnity for the loss, and the third party elects to settle a matter without contribution by the client.

(b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent. Such informed consent shall not be required when a client cannot be located despite reasonable efforts where the lawyer is

retained to represent a client by a third party which is obligated by contract to provide the client with a defense.

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may (1) discuss the legal consequences of any proposed course of conduct with a client; (2) **[**and may**]** counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law; or (3) counsel or assist a client regarding conduct expressly permitted by Connecticut law, provided that the lawyer counsels the client about the legal consequences, under other applicable law, of the client's proposed course of conduct.

COMMENTARY: **Allocation of Authority between Client and Lawyer.** Subsection (a) confers upon the client the ultimate authority to determine the purposes to be served by legal representation, within the limits imposed by law and the lawyer's professional obligations. The decisions specified in subsection (a), such as whether to settle a civil matter, must also be made by the client. See Rule 1.4 (a) (1) for the lawyer's duty to communicate with the client about such decisions. With respect to the means by which the client's objectives are to be pursued, the lawyer shall consult with the client as required by Rule 1.4 (a) (2) and may take such action as is impliedly authorized to carry out the representation.

On occasion, however, a lawyer and a client may disagree about the means to be used to accomplish the client's objectives. Clients normally defer to the special knowledge and skill of their lawyer with respect to the means to be used to accomplish their objectives, particularly with respect to technical, legal and tactical matters. Conversely,

lawyers usually defer to the client regarding such questions as the expense to be incurred and concern for third persons who might be adversely affected. Because of the varied nature of the matters about which a lawyer and client might disagree and because the actions in question may implicate the interests of a tribunal or other persons, this Rule does not prescribe how such disagreements are to be resolved. Other law, however, may be applicable and should be consulted by the lawyer. The lawyer should also consult with the client and seek a mutually acceptable resolution of the disagreement. If such efforts are unavailing and the lawyer has a fundamental disagreement with the client, the lawyer may withdraw from the representation. See Rule 1.16 (b) (4). Conversely, the client may resolve the disagreement by discharging the lawyer. See Rule 1.16 (a) (3).

At the outset of a representation, the client may authorize the lawyer to take specific action on the client's behalf without further consultation. Absent a material change in circumstances and subject to Rule 1.4, a lawyer may rely on such an advance authorization. The client may, however, revoke such authority at any time.

In a case in which the client appears to be suffering diminished capacity, the lawyer's duty to abide by the client's decisions is to be guided by reference to Rule 1.14.

Independence from Client's Views or Activities. Legal representation should not be denied to people who are unable to afford legal services or whose cause is controversial or the subject of popular disapproval. By the same token, representing a client does not constitute approval of the client's views or activities.

Agreements Limiting Scope of Representation. The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. For example, when a lawyer has been retained by an insurer to represent an insured, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent. Nothing in Rule 1.2 shall be construed to authorize limited appearances before any tribunal unless otherwise authorized by law or rule.

Although this Rule affords the lawyer and client substantial latitude to limit the scope of representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. See Rule 1.1.

All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8 and 5.6.

Criminal, Fraudulent and Prohibited Transactions. Subsection (d) prohibits a lawyer from knowingly counseling or assisting a client to commit a crime or fraud. This prohibition, however, does not preclude the lawyer from giving an honest opinion about the actual consequences that appear likely to result from a client's conduct. Nor does the fact that a client uses advice in a course of action that is criminal or fraudulent of itself make a lawyer a party to the course of action. There is a critical distinction between presenting an analysis of legal aspects of questionable conduct and recommending the means by which a crime or fraud might be committed.

When the client's course of action has already begun and is continuing, the lawyer's responsibility is especially delicate. The lawyer is required to avoid assisting the client, for example, by drafting or delivering documents that the lawyer knows are fraudulent or by suggesting how the wrongdoing might be concealed. A lawyer may not continue assisting a client in conduct that the lawyer originally believed legally proper but then discovers is criminal or fraudulent. The lawyer must, therefore, withdraw from the representation of the client in the matter. See Rule 1.16 (a). In some cases, withdrawal alone might be insufficient. It may be necessary for the lawyer to give notice of the fact of withdrawal and to disaffirm any opinion, document, affirmation or the like. See Rule 4.1.

Where the client is a fiduciary, the lawyer may be charged with special obligations in dealings with a beneficiary.

Subsection (d) applies whether or not the defrauded party is a party to the transaction. Hence, a lawyer must not participate in a transaction to effectuate criminal or fraudulent avoidance of tax liability. Subsection (d) does not preclude undertaking a criminal defense incident to a general retainer for legal services to a lawful enterprise. **[**The last clause of s**]**Subsection (d) (2) recognizes that determining the validity or interpretation of a statute or regulation may require a course of action involving disobedience of the statute or regulation or of the interpretation placed upon it by governmental authorities. Subsection (d) (3) is intended to permit counsel to provide legal services to clients without being subject to discipline under these Rules notwithstanding that the services concern conduct prohibited under federal or other law but expressly permitted under Connecticut law, e.g., conduct under An Act Concerning the Palliative Use of Marijuana, Public Act 12-55, effective Oct. 1, 2012. Subsection (d) (3) shall not provide a defense to a presentment filed pursuant to Practice Book Section 2-41 against an attorney found guilty of a serious crime in another jurisdiction.

If a lawyer comes to know or reasonably should know that a client expects assistance not permitted by the Rules of Professional Conduct or other law or if the lawyer intends to act contrary to the client's instructions, the lawyer must consult with the client regarding the limitations on the lawyer's conduct. See Rule 1.4 (a) (5).

AMENDMENT NOTE: The revisions to this rule and its commentary are intended to assist lawyers in advising clients about conduct expressly permitted under Connecticut law that is prohibited under federal or other law.

Rule 1.12. Former Judge, Arbitrator, Mediator or Other Third-Party Neutral

(a) Except as stated in subsection (d), a lawyer shall not represent anyone in connection with a matter in which the lawyer participated personally and substantially as a judge or other adjudicative officer or law clerk to such a person or as an arbitrator, mediator or other third-party neutral, unless all parties to the proceeding give informed consent, confirmed in writing.

(b) A lawyer shall not negotiate for employment with any person who is involved as a party or as lawyer for a party in a matter in which the lawyer is participating personally as a judge or other adjudicative officer, or as an arbitrator, mediator or other third-party neutral. A lawyer serving as a law clerk to a judge or other adjudicative officer may negotiate for employment with a party or lawyer involved in a matter in which the clerk is participating personally, but only after the lawyer has notified the judge or other adjudicative officer.

(c) If a lawyer is disqualified by subsection (a), no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in the matter unless:

(1) The disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(2) Written notice is promptly given to the parties and any appropriate tribunal to enable them to ascertain compliance with the provisions of this Rule.

(d) An arbitrator selected as a partisan of a party in a multi-member arbitration panel is not prohibited from subsequently representing that party.

COMMENTARY: This Rule generally parallels Rule 1.11. The term "personally and substantially" signifies that a judge who was a member of a multi-member court, and thereafter left judicial office to practice law, is not prohibited from representing a client in a matter pending in the court, but in which the former judge did not participate. So also the fact that a former judge exercised administrative responsibility in a court does not prevent the former judge from acting as a lawyer in a matter where the judge had previously exercised remote or incidental administrative responsibility that did not affect the merits. Compare the Comment to Rule 1.11. Participation on the merits or in settlement discussions is considered personal and substantial. Nominal or ministerial responsibility is not considered personal and substantial.

Like former judges, lawyers who have served as arbitrators, mediators or other third-party neutrals may be asked to represent a client in a matter in which the lawyer participated personally. This Rule forbids such representation unless all of the parties to the proceedings give their informed consent, confirmed in writing. See Rule 1.0 (c) and (f). Other law or codes of ethics governing third-party neutrals may impose more stringent standards of personal or imputed disqualification. See Rule 2.4.

Although lawyers who serve as third-party neutrals do not have information concerning the parties that is protected under Rule 1.6, they typically owe the parties an obligation of confidentiality under law or codes of ethics governing third-party neutrals. Thus, subsection (c) provides that conflicts of the personally disqualified lawyer will be imputed to other lawyers in a law firm unless the conditions of this subsection are met.

Requirements for screening procedures are stated in Rule 1.0 (*l*). Subsection (c) (1) does not prohibit the screened lawyer from receiving a salary or partnership share established by prior independent agreement, but that lawyer may not receive compensation directly related to the matter in which the lawyer is disqualified.

Notice, including a description of the screened lawyer's prior representation and of the screening procedures employed, generally should be given as soon as practicable after the need for screening becomes apparent.

AMENDMENT NOTE: The amendment to this rule provides that except with the written consent of the parties a lawyer shall not represent anyone in a matter in which the lawyer participated ''personally and substantially'' as a judge or other such judicial authority or as a law clerk to such judicial authority or as an arbitrator. Nominal or ministerial participation in a court matter as a judge is not considered personal and substantial under this rule.

Rule 1.18. Duties to Prospective Client

(a) A person who **[**discusses or communicates**]** consults with a lawyer concerning the possibility of forming a client-lawyer relationship with respect to a matter is a prospective client.

(b) Even when no client-lawyer relationship ensues, a lawyer who has **[**had discussions with**]** learned information from a prospective client shall not use or reveal that information **[**learned in the consultation**]**, except as Rule 1.9 would permit with respect to information of a former client.

(c) A lawyer subject to subsection (b) shall not represent a client with interests materially adverse to those of a prospective client in the same or a substantially related matter if the lawyer received information

from the prospective client that could be significantly harmful to that person in the matter, except as provided in subsection (d). If a lawyer is disqualified from representation under this paragraph, no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter, except as provided in subsection (d).

(d) When the lawyer has received disqualifying information as defined in subsection (c), representation is permissible if:

(1) both the affected client and the prospective client have given informed consent, confirmed in writing, or

(2) the lawyer who received the information took reasonable measures to avoid exposure to more disqualifying information than was reasonably necessary to determine whether to represent the prospective client; and

(i) the disqualified lawyer is timely screened from any participation in the matter; and

(ii) written notice is promptly given to the prospective client.

COMMENTARY: Prospective clients, like clients, may disclose information to a lawyer, place documents or other property in the lawyer's custody, or rely on the lawyer's advice. A lawyer's **[**discussions**]** consultations with a prospective client usually are limited in time and depth and leave both the prospective client and the lawyer free (and sometimes required) to proceed no further. Hence, prospective clients should receive some but not all of the protection afforded clients.

[Not all persons who transmit information to a lawyer are entitled to protection under this Rule.**]** A person becomes a prospective client by consulting with a lawyer about the possibility of forming a client-lawyer relationship with respect to a matter. Whether communications,

including written, oral, or electronic communications, constitute a consultation depends on the circumstances. For example, a consultation is likely to have occurred if a lawyer, either in person or through the lawyer's advertising in any medium, specifically requests or invites the submission of information about a potential representation without clear and reasonably understandable warnings and cautionary statements that limit the lawyer's obligations, and a person provides information in response. In contrast, a consultation does not occur if a person provides information to a lawyer in response to advertising that merely describes the lawyer's education, experience, areas of practice, and contact information, or provides legal information of general interest. **[**A person who transmits**]** Such a person communicates information unilaterally to a lawyer, without any reasonable expectation that the lawyer is willing to discuss the possibility of forming a client-lawyer relationship, and is thus not a ''prospective client'' **[**within the meaning of subsection (a)**]**. Moreover, a person who communicates with a lawyer for the purpose of disqualifying the lawyer is not a ''prospective client.''

It is often necessary for a prospective client to reveal information to the lawyer during an initial consultation prior to the decision about formation of a client-lawyer relationship. The lawyer often must learn such information to determine whether there is a conflict of interest with an existing client and whether the matter is one that the lawyer is willing to undertake. Subsection (b) prohibits the lawyer from using or revealing that information, except as permitted by Rule 1.9, even if the client or lawyer decides not to proceed with the representation.

The duty exists regardless of how brief the initial [conference] consultation may be.

In order to avoid acquiring disqualifying information from a prospective client, a lawyer considering whether or not to undertake a new matter should limit the initial [interview] consultation to only such information as reasonably appears necessary for that purpose. Where the information indicates that a conflict of interest or other reason for nonrepresentation exists, the lawyer should so inform the prospective client or decline the representation. If the prospective client wishes to retain the lawyer, and if consent is possible under Rule 1.7, then consent from all affected present or former clients must be obtained before accepting the representation.

A lawyer may condition [conversations] consultations with a prospective client on the person's informed consent that no information disclosed during the consultation will prohibit the lawyer from representing a different client in the matter. See Rule 1.0 (f) for the definition of informed consent. If the agreement expressly so provides, the prospective client may also consent to the lawyer's subsequent use of information received from the prospective client.

Even in the absence of an agreement, under subsection (c), the lawyer is not prohibited from representing a client with interests adverse to those of the prospective client in the same or a substantially related matter unless the lawyer has received from the prospective client information that could be significantly harmful if used in the matter.

Under subsection (c), the prohibition in this Rule is imputed to other lawyers as provided in Rule 1.10, but, under subsection (d) (1), imputa-

tion may be avoided if the lawyer obtains the informed consent, confirmed in writing, of both the prospective and affected clients. In the alternative, imputation may be avoided if the conditions of subsection (d) (2) are met and all disqualified lawyers are timely screened and written notice is promptly given to the prospective client. See Rule 1.0 (*l*) (requirements for screening procedures).

Notice, including a general description of the subject matter about which the lawyer was consulted, and of the screening procedures employed, generally should be given as soon as practicable after the need for screening becomes apparent.

For the duty of competence of a lawyer who gives assistance on the merits of a matter to a prospective client, see Rule 1.1. For a lawyer's duties when a prospective client entrusts valuables or papers to the lawyer's care, see Rule 1.15.

AMENDMENT NOTE: The revisions to this rule and its commentary provide that a person becomes a prospective client by consulting with a lawyer about the possibility of establishing a client-lawyer relationship. The various types and nature of communications that may constitute a consultation are also discussed.

Rule 3.8. Special Responsibilities of a Prosecutor

The prosecutor in a criminal case shall:

(1) Refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause;

(2) Make reasonable efforts to assure that the accused has been advised of the right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel;

(3) Not seek to obtain from an unrepresented accused a waiver of important pretrial rights, such as the right to a preliminary hearing;

(4) Make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal; and

(5) Exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6.

(6) When a prosecutor knows of new and credible evidence creating a reasonable probability that a convicted defendant did not commit an offense of which the defendant was convicted, the prosecutor shall, unless a court authorizes delay:

(A) if the conviction was obtained outside the prosecutor's jurisdiction, promptly disclose that evidence to a court and an appropriate authority, and

(B) if the conviction was obtained in the prosecutor's jurisdiction, promptly disclose that evidence to the defendant, and a court and an appropriate authority.

COMMENTARY: A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice and that guilt is decided upon the basis of sufficient evidence. Precisely how far the prosecutor is required to go in this direction is a matter of debate and varies in different jurisdictions.

Many jurisdictions have adopted the ABA Standards of Criminal Justice Relating to the Prosecution Function, which in turn are the product of prolonged and careful deliberation by lawyers experienced in both criminal prosecution and defense. See also Rule 3.3 (d), governing ex parte proceedings, among which grand jury proceedings are included. Applicable law may require other measures by the prosecutor and knowing disregard of those obligations or a systematic abuse of prosecutorial discretion could constitute a violation of Rule 8.4.

Subdivision (3) does not apply to an accused appearing as a self-represented party with the approval of the tribunal. Nor does it forbid the lawful questioning of a suspect who has knowingly waived the rights to counsel and silence.

The exception in subdivision (4) recognizes that a prosecutor may seek an appropriate protective order from the tribunal if disclosure of information to the defense could result in substantial harm to an individual or to the public interest.

When a prosecutor knows of new and credible evidence creating a reasonable probability that a person outside the prosecutor's jurisdiction was convicted of a crime that the person did not commit, subdivision (6) requires prompt disclosure to a court and other appropriate authority, such as the Office of the Chief Public Defender, the office of the Federal Defender or the chief prosecutor of the jurisdiction where the conviction occurred. When disclosure is made to the chief prosecutor of the jurisdiction, that prosecutor must then independently evaluate his or her own ethical obligations under this Rule with respect to the evidence. If the conviction was obtained in the prosecutor's jurisdiction, subdivision (6) requires the prosecutor to promptly disclose

the evidence to the defendant and a court and other appropriate authority, such as the Office of th Chief Public Defender or the office of the Federal Defender. Disclosure to a court shall be by written notice to the presiding judge of the jurisdiction in which the conviction was obtained, or, where the conviction was in federal court, to the chief United States District Court Judge. Consistent with the objectives of Rules 4.2 and 4.3, disclosure to a represented defendant must be made through the defendant's counsel. If a defendant is not represented, or if the prosecutor cannot determine if a defendant is represented, disclosure to the Office of the Chief Public Defender or the Office of the Federal Defender shall satisfy the requirement of notice to the defendant. The prosecutor may seek to delay disclosure by means of a protective order or other appropriate measure to protect the safety of a witness, to secure the integrity of an on-going investigation, or other similar purpose. Knowledge denotes the actual knowledge of the prosecutor who is determining the scope of his or her own ethical duty to act. A ''reasonable probability that the defendant did not commit an offense of which the defendant was convicted'' is ''a probability sufficient to undermine confidence in the outcome,'' as articulated in *Brady* v. *Maryland*, 373 U.S. 83 (1963) and *Strickland* v. *Washington*, 466 U.S. 668 (1984). The decision by a prosecutor to disclose information to a defendant or an appropriate authority shall not be deemed a concession that, and shall not ethically foreclose the prosecutor from contesting before a factfinder or an appeallate tribunal that, the evidence is new or credible or that it creates a reasonable probability that the defendant did not commit the offense.

A prosecutor's independent judgment, made in good faith, that the new evidence is not of such nature as to trigger the obligations of subdivision (6), though subsequently determined to have been erroneous, does not constitute a violation of this Rule.

AMENDMENT NOTE: The above change is based on Rule 3.8 (g) of the ABA Model Rules of Professional Conduct and requires a prosecutor to disclose to a court, appropriate authority, and/or the defendant new and credible evidence creating a reasonable probability that a convicted defendant did not commit the offense.

Rule 5.3. Responsibilities regarding Nonlawyer [Assistants]Assistance

With respect to a nonlawyer employed or retained by or associated with a lawyer:

(1) A partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;

(2) A lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and

(3) A lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:

(A) The lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(B) The lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory

authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

COMMENTARY: Lawyers generally employ assistants in their practice, including secretaries, investigators, law student interns, and paraprofessionals. Such assistants, whether employees or independent contractors, act for the lawyer in rendition of the lawyer's professional services. A lawyer must give such assistants appropriate instruction and supervision concerning the ethical aspects of their employment, particularly regarding the obligation not to disclose information relating to representation of the client, and should be responsible for their work product. The measures employed in supervising nonlawyers should take account of the fact that they do not have legal training and are not subject to professional discipline.

Subdivision (1) requires lawyers with managerial authority within a law firm to make reasonable efforts to **[**establish internal policies and procedures designed to provide**]** ensure that the firm has in effect measures giving reasonable assurance that nonlawyers in the firm **[**will**]** and nonlawyers outside the firm who work on firm matters act in a way compatible with the **[**Rules of Professional Conduct**]** professional obligations of the lawyer. See Commentary to Rule 1.1 and first paragraph of Commentary to Rule 5.1. Subdivision (2) applies to lawyers who have supervisory authority over **[**the work of a nonlawyer**]** such nonlawyers within or outside the firm. Subdivision (3) specifies the circumstances in which a lawyer is responsible for the conduct of **[**a nonlawyer**]** such nonlawyers within or outside the firm that would be

a violation of the Rules of Professional Conduct if engaged in by a lawyer.

Nonlawyers Outside the Firm. A lawyer may use nonlawyers outside the firm to assist the lawyer in rendering legal services to the client. Examples include the retention of an investigative or paraprofessional service, hiring a document management company to create and maintain a database for complex litigation, sending client documents to a third party for printing or scanning, and using an Internet-based service to store client information. When using such services outside the firm, a lawyer must make reasonable efforts to ensure that the services are provided in a manner that is compatible with the lawyer's professional obligations. The extent of this obligation will depend upon the circumstances, including the education, experience and reputation of the nonlawyer; the nature of the services involved; the terms of any arrangements concerning the protection of client information; and the legal and ethical environments of the jurisdictions in which the services will be performed, particularly with regard to confidentiality. See also Rules 1.1 (competence), 1.2 (allocation of authority), 1.4 (communication with client), 1.6 (confidentiality), 5.4 (a) (professional independence of the lawyer), and 5.5 (a) (unauthorized practice of law). When retaining or directing a nonlawyer outside the firm, a lawyer should communicate directions appropriate under the circumstances to give reasonable assurance that the nonlawyer's conduct is compatible with the professional obligations of the lawyer.

Where the client directs the selection of a particular nonlawyer service provider outside the firm, the lawyer may need to consult with the client to determine how the outsourcing arrangement should be

structured and who will be responsible for monitoring the performance of the nonlawyer services. Unless the client expressly agrees that the client will be responsible for monitoring the nonlawyer's services, the lawyer will be responsible for monitoring the nonlawyer's services.

AMENDMENT NOTE: The revisions to this rule and to Rule 1.1 include guidance for lawyers on outsourcing and are prompted by the ABA's Commission on Ethics 20/20.

Rule 5.5. Unauthorized Practice of Law

(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so. The practice of law in this jurisdiction is defined in Practice Book Section 2-44A. Conduct described in subsections (c) and (d) in another jurisdiction shall not be deemed the unauthorized practice of law for purposes of this subsection (a).

(b) A lawyer who is not admitted to practice in this jurisdiction, shall not:

(1) except as authorized by law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or

(2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

(c) A lawyer admitted in another United States jurisdiction which accords similar privileges to Connecticut lawyers in its jurisdiction, and provided that the lawyer is not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction, that:

(1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;

(2) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the lawyer, or a person the lawyer is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized;

(3) are in or reasonably related to a pending or potential mediation or other alternative dispute resolution proceeding in this or another jurisdiction, with respect to a matter that is substantially related to, or arises in, a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires *pro hac vice* admission; or

(4) are not within subdivisions (c) (2) or (c) (3) and arise out of or are substantially related to the legal services provided to an existing client of the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice.

(d) A lawyer admitted to practice in another jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services in this jurisdiction that:

(1) the lawyer is authorized to provide pursuant to Practice Book Section 2-15A and the lawyer is an authorized house counsel as provided in that section; or

(2) the lawyer is authorized by federal or other law <u>or rule</u> to provide in this jurisdiction.

(e) A lawyer not admitted to practice in this jurisdiction and authorized by the provisions of this Rule to engage in providing legal services on a temporary basis in this jurisdiction is thereby subject to the disciplinary rules of this jurisdiction with respect to the activities in this jurisdiction.

(f) A lawyer desirous of obtaining the privileges set forth in subsections (c) (3) or (4): (1) shall notify the statewide bar counsel as to each

separate matter prior to any such representation in Connecticut, (2) shall notify the statewide bar counsel upon termination of each such representation in Connecticut, and (3) shall pay such fees as may be prescribed by the Judicial Branch.

COMMENTARY: A lawyer may practice law only in a jurisdiction in which the lawyer is authorized to practice. A lawyer may be admitted to practice law in a jurisdiction on a regular basis or may be authorized by court rule or order or by law to practice for a limited purpose or on a restricted basis. Subsection (a) applies to unauthorized practice of law by a lawyer, whether through the lawyer's direct action or by the lawyer's assisting another person.

A lawyer may provide professional advice and instruction to nonlawyers whose employment requires knowledge of the law; for example, claims adjusters, employees of financial or commercial institutions, social workers, accountants and persons employed in government agencies. Lawyers also may assist independent nonlawyers, such as paraprofessionals, who are authorized by the law of a jurisdiction to provide particular law-related services. In addition, a lawyer may counsel nonlawyers who wish to proceed as self-represented parties.

Other than as authorized by law or this Rule, a lawyer who is not admitted to practice generally in this jurisdiction violates subsection (b) (1) if the lawyer establishes an office or other systematic and continuous presence in this jurisdiction for the practice of law. Presence may be systematic and continuous even if the lawyer is not physically present here. Such a lawyer must not hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction. See also Rules 7.1 (a) and 7.5 (b). A lawyer not admitted to practice

in this jurisdiction who engages in repeated and frequent activities of a similar nature in this jurisdiction such as the preparation and/or recording of legal documents (loans and mortgages) involving residents or property in this state may be considered to have a systematic and continuous presence in this jurisdiction which would not be authorized by this Rule and could thereby be considered to constitute unauthorized practice of law.

There are occasions in which a lawyer admitted to practice in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction under circumstances that do not create an unreasonable risk to the interests of their clients, the public or the courts. Subsection (c) identifies four such circumstances. The fact that conduct is not so identified does not imply that the conduct is or is not authorized. With the exception of subdivisions (d) (1) and (d) (2), this Rule does not authorize a lawyer to establish an office or other systematic and continuous presence in this jurisdiction without being admitted to practice generally here. There is no single test to determine whether a lawyer's services are provided on a ''temporary basis'' in this jurisdiction and may, therefore, be permissible under subsection (c). Services may be ''temporary'' even though the lawyer provides services in this jurisdiction for an extended period of time, as when the lawyer is representing a client in a single lengthy negotiation or litigation.

Subsection (c) applies to lawyers who are admitted to practice law in any United States jurisdiction, which includes the District of Columbia and any state, territory or commonwealth of the United States. The

word ''admitted'' in subsection (c) contemplates that the lawyer is authorized to practice in the jurisdiction in which the lawyer is admitted and excludes a lawyer who, while technically admitted, is not authorized to practice, because, for example, the lawyer is in an inactive status.

Subdivision (c) (1) recognizes that the interests of clients and the public are protected if a lawyer admitted only in another jurisdiction associates with a lawyer licensed to practice in this jurisdiction. For this subdivision to apply, however, the lawyer admitted to practice in this jurisdiction must actively participate in and share responsibility for the representation of the client.

Lawyers not admitted to practice generally in a jurisdiction may be authorized by law or order of a tribunal or an administrative agency to appear before the tribunal or agency. This authority may be granted pursuant to formal rules governing admission *pro hac vice* or pursuant to informal practice of the tribunal or agency. Under subdivision (c) (2), a lawyer does not violate this Rule when the lawyer appears before a tribunal or agency pursuant to such authority. To the extent that a court rule or other law of this jurisdiction requires a lawyer who is not admitted to practice in this jurisdiction to obtain admission *pro hac vice* before appearing before a tribunal or administrative agency, this Rule requires the lawyer to obtain that authority.

Subdivision (c) (2) also provides that a lawyer rendering services in this jurisdiction on a temporary basis does not violate this Rule when the lawyer engages in conduct in anticipation of a proceeding or hearing in a jurisdiction in which the lawyer is authorized to practice law or in which the lawyer reasonably expects to be admitted *pro*

hac vice. Examples of such conduct include meetings with the client, interviews of potential witnesses, and the review of documents. Similarly, a lawyer admitted only in another jurisdiction may engage in conduct temporarily in this jurisdiction in connection with pending litigation in another jurisdiction in which the lawyer is or reasonably expects to be authorized to appear, including taking depositions in this jurisdiction.

When a lawyer has been or reasonably expects to be admitted to appear before a court or administrative agency, subdivision (c) (2) also permits conduct by lawyers who are associated with that lawyer in the matter, but who do not expect to appear before the court or administrative agency. For example, subordinate lawyers may conduct research, review documents, and attend meetings with witnesses in support of the lawyer responsible for the litigation.

Subdivision (c) (3) permits a lawyer admitted to practice law in another jurisdiction to perform services on a temporary basis in this jurisdiction if those services are in or reasonably related to a pending or potential mediation or other alternative dispute resolution proceeding in this or another jurisdiction, if the services are with respect to a matter that is substantially related to, or arises out of, a jurisdiction in which the lawyer is admitted to practice. The lawyer, however, must obtain admission *pro hac vice* in the case of a court-annexed arbitration or mediation or otherwise if court rules or law so require.

Subdivision (c) (4) permits a lawyer admitted in another jurisdiction to provide certain legal services on a temporary basis in this jurisdiction if they arise out of or are substantially related to the lawyer's practice in a jurisdiction in which the lawyer is admitted but are not within

subdivisions (c) (2) or (c) (3). These services include both legal services and services that nonlawyers may perform but that are considered the practice of law when performed by lawyers.

Subdivision (c) (3) requires that the services be with respect to a matter that is substantially related to, or arises out of, a jurisdiction in which the lawyer is admitted. A variety of factors may evidence such a relationship. However, the matter, although involving other jurisdictions, must have a significant connection with the jurisdiction in which the lawyer is admitted to practice. A significant aspect of the lawyer's work might be conducted in that jurisdiction or a significant aspect of the matter may involve the law of that jurisdiction. The necessary relationship might arise when the client's activities and the resulting legal issues involve multiple jurisdictions. Subdivision (c) (4) requires that the services provided in this jurisdiction in which the lawyer is not admitted to practice be for (1) an existing client, i.e., one with whom the lawyer has a previous relationship and not arising solely out of a Connecticut based matter and (2) arise out of or be substantially related to the legal services provided to that client in a jurisdiction in which the lawyer is admitted to practice. Without both, the lawyer is prohibited from practicing law in the jurisdiction in which the lawyer is not admitted to practice.

Subdivision (d) (2) recognizes that a lawyer may provide legal services in a jurisdiction in which the lawyer is not licensed when authorized to do so by federal or other law, which includes statute, court rule, executive regulation or judicial precedent.

A lawyer who practices law in this jurisdiction pursuant to subsections (c) or (d) or otherwise is subject to the disciplinary authority of this jurisdiction. See Rule 8.5 (a).

In some circumstances, a lawyer who practices law in this jurisdiction pursuant to subsections (c) or (d) may have to inform the client that the lawyer is not licensed to practice law in this jurisdiction.

Subsections (c) and (d) do not authorize communications advertising legal services **[**to prospective clients**]** in this jurisdiction by lawyers who are admitted to practice in other jurisdictions. Whether and how lawyers may communicate the availability of their services in this jurisdiction is governed by Rules 7.1 to 7.5.

AMENDMENT NOTE: The revisions to subsection (d) (2) of this rule conform the rule to its commentary. The revisions to the commentary are consistent with the revisions to Rule 1.18 and, also, reference Rules 7.1 to 7.5 as governing whether and how lawyers may communicate their services.

Rule 7.1. Communications concerning a Lawyer's Services

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

COMMENTARY: This Rule governs all communications about a lawyer's services, including advertising permitted by Rule 7.2. Whatever means are used to make known a lawyer's services, statements about them must be truthful. Statements, even if literally true, that are misleading are also prohibited by this Rule. A truthful statement is misleading if it omits a fact necessary to make the lawyer's communica-

tion considered as a whole not materially misleading. A truthful statement is also misleading if there is a substantial likelihood that it will lead a reasonable person to formulate a specific conclusion about the lawyer or the lawyer's services for which there is no reasonable factual foundation.

An advertisement that truthfully reports a lawyer's achievements on behalf of clients or former clients may be misleading if presented so as to lead a reasonable person to form an unjustified expectation that the same results could be obtained for other clients in similar matters without reference to the specific factual and legal circumstances of each client's case. Similarly, an unsubstantiated comparison of the lawyer's services or fees with the services or fees of other lawyers may be misleading if presented with such specificity as would lead a reasonable person to conclude that the comparison can be substantiated. The inclusion of an appropriate disclaimer or qualifying language may preclude a finding that a statement is likely to create unjustified expectations or otherwise mislead **[**a prospective client**]** the public.

See also Rule 8.4 (5) for the prohibition against stating or implying an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law.

AMENDMENT NOTE: The revision to this rule substitutes the term ''the public'' for the term ''a prospective client'' and is consist with the other changes to the Rules of Professional Conduct being recommended.

Rule 7.2. Advertising

(a) Subject to the requirements set forth in Rules 7.1 and 7.3, a lawyer may advertise services through written, recorded or electronic communication, including public media.

(b) (1) A copy or recording of an advertisement or communication shall be kept for three years after its last dissemination along with a record of when and where it was used. An electronic advertisement or communication shall be copied once every three months on a compact disc or similar technology and kept for three years after its last dissemination.

(2) A lawyer shall comply with the mandatory filing requirement of Practice Book Section 2-28A.

(c) A lawyer shall not give anything of value to a person for recommending the lawyer's services, except that a lawyer may:

(1) pay the reasonable cost of advertisements or communications permitted by this Rule;

(2) pay the usual charges of a not-for-profit or qualified lawyer referral service. A qualified lawyer referral service is a lawyer referral service that has been approved by an appropriate regulatory authority;

(3) pay for a law practice in accordance with Rule 1.17.

(d) Any advertisement or communication made pursuant to this Rule shall include the name of at least one lawyer admitted in Connecticut responsible for its content. In the case of television advertisements, the name, address and telephone number of the lawyer admitted in Connecticut shall be displayed in bold print for fifteen seconds or the duration of the commercial, whichever is less, and shall be prominent enough to be readable.

(e) Advertisements on the electronic media such as television and radio may contain the same factual information and illustrations as permitted in advertisements in the print media.

(f) Every advertisement and written communication that contains information about the lawyer's fee, including those indicating that the charging of a fee is contingent on outcome, or that no fee will be charged in the absence of a recovery, or that the fee will be a percentage of the recovery, shall disclose whether and to what extent the client will be responsible for any court costs and expenses of litigation. The disclosure concerning court costs and expenses of litigation shall be in the same print size and type as the information regarding the lawyer's fee and, if broadcast, shall appear for the same duration as the information regarding the lawyer's fee. If the information regarding the fee is spoken, the disclosure concerning court costs and expenses of litigation shall also be spoken.

(g) A lawyer who advertises a specific fee or range of fees for a particular service shall honor the advertised fee or range of fees for at least ninety days unless the advertisement specifies a shorter period; provided that, for advertisements in the yellow pages of telephone directories or other media not published more frequently than annually, the advertised fee or range of fees shall be honored for no less than one year following publication.

(h) No lawyers shall directly or indirectly pay all or part of the cost of an advertisement by a lawyer not in the same firm unless the advertisement discloses the name and address of the nonadvertising lawyer, and whether the advertising lawyer may refer any case received through the advertisement to the nonadvertising lawyer.

(i) The following information in advertisements and written communications shall be presumed not to violate the provisions of Rule 7.1:

(1) Subject to the requirements of Rule 7.3, the name of the lawyer or law firm, a listing of lawyers associated with the firm, office addresses and telephone numbers, office and telephone service hours, fax numbers, website and e-mail addresses and domain names, and a designation such as ''attorney'' or ''law firm.''

(2) Date of admission to the Connecticut bar and any other bars and a listing of federal courts and jurisdictions where the lawyer is licensed to practice.

(3) Technical and professional licenses granted by the state or other recognized licensing authorities.

(4) Foreign language ability.

(5) Fields of law in which the lawyer practices or is designated, subject to the requirements of Rule 7.4, or is certified pursuant to Rule 7.4A.

(6) Prepaid or group legal service plans in which the lawyer participates.

(7) Acceptance of credit cards.

(8) Fee for initial consultation and fee schedule.

(9) A listing of the name and geographic location of a lawyer or law firm as a sponsor of a public service announcement or charitable, civic or community program or event.

(10) Nothing in this Rule prohibits a lawyer or law firm from permitting the inclusion in the law directories intended primarily for the use of the legal profession of such information as has traditionally been included in these publications.

(j) Notwithstanding the provisions of subsection (d), a lawyer and service may participate in an internet based client to lawyer matching

service, provided the service otherwise complies with the Rules of Professional Conduct. If the service provides an exclusive referral to a lawyer or law firm for a particular practice area in a particular geographical region, then the service must comply with subsection (d).

COMMENTARY: To assist the public in learning about and obtaining legal services, lawyers should be allowed to make known their services not only through reputation but also through organized information campaigns in the form of advertising. Advertising involves an active quest for clients, contrary to the tradition that a lawyer should not seek clientele. However, the public's need to know about legal services can be fulfilled in part through advertising. This need is particularly acute in the case of persons of moderate means who have not made extensive use of legal services. The interest in expanding public information about legal services ought to prevail over considerations of tradition. Nevertheless, advertising by lawyers entails the risk of practices that are misleading or overreaching.

This Rule permits public dissemination of information concerning a lawyer's name or firm name, address, email address, website, and telephone number; the kinds of services the lawyer will undertake; the basis on which the lawyer's fees are determined, including prices for specific services and payment and credit arrangements; whether and to what extent the client will be responsible for any court costs and expenses of litigation; lawyer's foreign language ability; names of references and, with their consent, names of clients regularly represented; and other information that might invite the attention of those seeking legal assistance.

Questions of effectiveness and taste in advertising are matters of speculation and subjective judgment. Some jurisdictions have had extensive prohibitions against television advertising and other forms of advertising, against advertising going beyond specified facts about a lawyer, or against ''undignified'' advertising. Television, the Internet, and other forms of electronic communication are [is] now [one of] among the most powerful media for getting information to the public, particularly persons of low and moderate income; prohibiting television, Internet, and other forms of electronic advertising, therefore, would impede the flow of information about legal services to many sectors of the public. Limiting the information that may be advertised has a similar effect and assumes that the bar can accurately forecast the kind of information that the public would regard as relevant.

Neither this Rule nor Rule 7.3 prohibits communications authorized by law, such as notice to members of a class in class action litigation.

Record of Advertising. Subsection (b) requires that a record of the content and use of advertising be kept in order to facilitate enforcement of this Rule. It does not require that advertising be subject to review prior to dissemination. Such a requirement would be burdensome and expensive relative to its possible benefits, and may be of doubtful constitutionality.

Paying Others to Recommend a Lawyer. Except as permitted under subsection (c) (1)–(c) (3), lawyers are not permitted to pay others for recommending the lawyer's services or for channeling professional work in a manner that violates Rule 7.3. A communication contains a recommendation if it endorses or vouches for a lawyer's credentials, abilities, competence, character, or other professional qualities. Sub-

section (c) (1), however, allows a lawyer to pay for advertising and communications permitted by this Rule, including the costs of print directory listings, on-line directory listings, newspaper ads, television and radio airtime, domain-name registrations, sponsorship fees, ads, Internet-based advertisements, and group advertising. A lawyer may compensate employees, agents and vendors who are engaged to provide marketing or client development services, such as publicists, public-relations personnel, business development staff and website designers. Moreover, a lawyer may pay others for generating client leads, such as Internet-based client leads, as long as the lead generator does not recommend the lawyer, any payment to the lead generator is consistent with Rules 1.5 (e) (division of fees) and 5.4 (professional independence of the lawyer), and the lead generator's communications are consistent with Rule 7.1 (communications concerning a lawyer's services) and subsection (i). To comply with Rule 7.1, a lawyer must not pay a lead generator that states, implies, or creates a reasonable impression that it is recommending the lawyer, is making the referral without payment from the lawyer, or has analyzed a person's legal problems when determining which lawyer should receive the referral. See also Rule 5.3 for the (duties of lawyers and law firms with respect to the conduct of nonlawyers); Rule 8.4 (a) (duty to avoid violating the Rules through the acts of another).

A lawyer may pay the usual charges of a legal service plan or a not-for-profit or qualified lawyer referral service. A legal service plan is a prepaid or group legal service plan or a similar delivery system that assists **[**prospective clients**]** people who seek to secure legal representation. A lawyer referral service, on the other hand, is any

organization that holds itself out to the public as a lawyer referral service. Such referral services are understood by **[**laypersons**]** the public to be consumer oriented organizations that provide unbiased referrals to lawyers with appropriate experience in the subject matter of the representation and afford other client protections, such as complaint procedures or malpractice insurance requirements. Consequently, this Rule only permits a lawyer to pay the usual charges of a not-for-profit or qualified lawyer referral service. A qualified lawyer referral service is one that is approved by an appropriate regulatory authority as affording adequate protections for **[**prospective clients**]** the public. See, e.g., the American Bar Association's Model Supreme Court Rules Governing Lawyer Referral Services and Model Lawyer Referral and Information Service Quality Assurance Act (requiring that organizations that are identified as lawyer referral services: [i] permit the participation of all lawyers who are licensed and eligible to practice in the jurisdiction and who meet reasonable objective eligibility requirements as may be established by the referral service for the protection of **[**prospective clients**]** the public; [ii] require each participating lawyer to carry reasonably adequate malpractice insurance; [iii] act reasonably to assess client satisfaction and address client complaints; and [iv] do not make referrals **[**prospective clients**]** to lawyers who own, operate or are employed by the referral service).

A lawyer who accepts assignments or referrals from a legal service plan or referrals from a lawyer referral service must act reasonably to assure that the activities of the plan or service are compatible with the lawyer's professional obligations. See Rule 5.3. Legal service plans and lawyer referral services may communicate with **[**prospective

clients**]** the public, but such communication must be in conformity with these Rules. Thus, advertising must not be false or misleading, as would be the case if the communications of a group advertising program or a group legal services plan would mislead **[**prospective clients**]** the public to think that it was a lawyer referral service sponsored by a state agency or bar association. Nor could the lawyer allow in person, telephonic, or real-time contacts that would violate Rule 7.3.

AMENDMENT NOTE: The revisions to the commentary to this rule are intended to more precisely define the term ''recommendation'' and thereby eliminate some of the confusion about the use of Internet-based lead generators and other client development tools.

Rule 7.3. [Personal Contact with Prospective] Solicitation of Clients

(a) A lawyer shall not initiate personal, live telephone, or real-time electronic contact, including telemarketing contact**[**, with a prospective client**]** for the purpose of obtaining professional employment, except in the following circumstances:

(1) If the **[**prospective client**]** target of the solicitation is a close friend, relative, former client or one whom the lawyer reasonably believes to be a client;

(2) Under the auspices of a public or charitable legal services organization;

(3) Under the auspices of a bona fide political, social, civic, fraternal, employee or trade organization whose purposes include but are not limited to providing or recommending legal services, if the legal services are related to the principal purposes of the organization;

(4) If the **[**prospective client**]** target of the solicitation is a business organization, a not-for-profit organization or governmental body and the lawyer seeks to provide services related to the organization.

(b) A lawyer shall not contact, or send**[**,**]** a written or electronic communication **[**to, a prospective client**]** for the purpose of obtaining professional employment if:

(1) The lawyer knows or reasonably should know that the physical, emotional or mental state of the person makes it unlikely that the person would exercise reasonable judgment in employing a lawyer;

(2) It has been made known to the lawyer that the person does not want to receive such communications from the lawyer;

(3) The communication involves coercion, duress, fraud, overreaching, harassment, intimidation or undue influence;

(4) The written communication concerns a specific matter and the lawyer knows or reasonably should know that the person to whom the communication is directed is represented by a lawyer in the matter; or

(5) The written or electronic communication concerns an action for personal injury or wrongful death or otherwise relates to an accident or disaster involving the person to whom the communication is addressed or a relative of that person, unless the accident or disaster occurred more than forty days prior to the mailing of the communication.

(c) Every written communication, as well as any communication by audio or video recording, or other electronic means, used by a lawyer for the purpose of obtaining professional employment from **[**a prospective client**]** anyone known to be in need of legal services in a particular matter, must be clearly and prominently labeled ''Advertising Material'' in red ink on the first page of any written communication and the lower

left corner of the outside envelope or container, if any, and at the beginning and ending of any communication by audio or video recording or other electronic means. If the written communication is in the form of a self-mailing brochure or pamphlet, the label ''Advertising Material'' in red ink shall appear on the address panel of the brochure or pamphlet. Brochures solicited by clients or prospective clients need not contain such mark. No reference shall be made in the communication to the communication having any kind of approval from the Connecticut bar. Such **[**W**]**written communications **[**mailed to prospective clients**]** shall be sent only by regular United States mail, not by registered mail or other forms of restricted delivery.

(d) The first sentence of any written communication concerning a specific matter shall be: ''If you have already retained a lawyer for this matter, please disregard this letter.''

(e) A written communication seeking employment **[**by a specific prospective client**]** in a specific matter shall not reveal on the envelope, or on the outside of a self-mailing brochure or pamphlet, the nature of the **[**client's**]** legal **[**problem**]** matter.

(f) If a contract for representation is mailed with the communication, the top of each page of the contract shall be marked ''**Sample**'' in bold letters in red ink in a type size one size larger than the largest type used in the contract and the words ''**Do Not Sign**'' in bold letters shall appear on the client signature line.

(g) Written communications shall be on lettersized paper rather than legal-sized paper and shall not be made to resemble legal pleadings or other legal documents. This provision does not preclude the mailing of brochures and pamphlets.

(h) If a lawyer other than the lawyer whose name or signature appears on the communication will actually handle the case or matter, or if the case or matter will be referred to another lawyer or law firm, any written communication concerning a specific matter shall include a statement so advising the client.

(i) Notwithstanding the prohibitions in subsection (a), a lawyer may participate with a prepaid or group legal service plan operated by an organization not owned or directed by the lawyer which uses in-person or telephone contact to solicit memberships or subscriptions for the plan from persons who are not known to need legal services in a particular matter covered by the plan.

COMMENTARY: A solicitation is a targeted communication initiated by the lawyer that is directed to a specific person and that offers to provide, or can reasonably be understood as offering to provide, legal services. In contrast, a lawyer's communication typically does not constitute a solicitation if it is directed to the general public, such as through a billboard, an Internet banner advertisement, a website or a television commercial, or if it is in response to a request for information or is automatically generated in response to Internet searches.

Unrestricted solicitation involves definite social harms. Among these are harassment, overreaching, provocation of nuisance litigation and schemes for systematic fabrication of claims, all of which were experienced prior to adoption of restrictions on solicitation. Measures reasonably designed to suppress these harms are constitutionally legitimate. At the same time, measures going beyond realization of such objectives would appear to be invalid under relevant decisions of the United States Supreme Court.

The potential for abuse inherent in direct in-person, live telephone or real-time electronic solicitation justifies their prohibition, particularly since lawyers have alternative means of conveying necessary information to those who may be in need of legal services. In particular, communications can be mailed or transmitted by email or other electronic means that do not involve real-time contact and do not violate other laws governing solicitations. These forms of communications and solicitations make it possible for the public to be informed about the need for legal services, and about the qualifications of available lawyers and law firms, without subjecting the public to direct in-person, telephone or real-time electronic persuasion that may overwhelm a person's judgment.

The use of general advertising and written, recorded and electronic communications to transmit information from lawyer to **[**prospective client**]** the public, rather than direct in-person, live telephone, or real-time electronic contact, will help to assure that the information flows cleanly as well as freely. The contents of advertisements and communications permitted under Rule 7.2 can be permanently recorded so that they cannot be disputed and may be shared with others who know the lawyer. This potential for informal review is itself likely to help guard against statements and claims that might constitute false and misleading communications, in violation of Rule 7.1. The contents of direct in-person, live telephone, or real-time electronic conversations **[**between a lawyer to a prospective client**]** contact can be disputed and are not subject to a third-party scrutiny. Consequently, they are much more likely to approach (and occasionally cross) the dividing

line between accurate representations and those that are false and misleading.

There is far less likelihood that a lawyer would engage in abusive practices against a former client, or a person with whom the lawyer has a close personal or family relationship, or in situations in which the lawyer is motivated by considerations other than the lawyer's pecuniary gain. Nor is there a serious potential for abuse when the person contacted is a lawyer. Consequently, the general prohibition in Rule 7.3 (a) and the requirements of Rule 7.3 (c) are not applicable in those situations. Also, nothing in this Commentary is intended to prohibit a lawyer from participating in constitutionally protected activities of public or charitable legal service organizations or bona fide political, social, civic, fraternal, employee or trade organizations whose purposes include providing or recommending legal services to their members or beneficiaries.

In determining whether a contact is permissible under Rule 7.3 (b), it is relevant to consider the time and circumstances under which the contact is initiated. For example, a person undergoing active medical treatment for traumatic injury is unlikely to be in an emotional state in which reasonable judgment about employing a lawyer can be exercised. Moreover, if after sending a letter or other communication to a **[**client**]** member of the public as permitted by Rule 7.2 the lawyer receives no response, any further effort to communicate with the **[**prospective client**]** person may violate the provisions of Rule 7.3 (b).

The requirement in Rule 7.3 (c) that certain communications be marked ''Advertising Material'' does not apply to communications sent in response to requests of potential clients or their spokespersons or

sponsors. General announcements by lawyers, including changes in personnel or office location, do not constitute communications soliciting professional employment from a client known to be in need of legal services within the meaning of this Rule.

This Rule is not intended to prohibit a lawyer from contacting representatives of organizations or groups that may be interested in establishing a group or prepaid legal plan for their members, insureds, beneficiaries or other third parties for the purpose of informing such entities of the availability of and details concerning the plan or arrangement which the lawyer or lawyer's firm is willing to offer. This form of communication is not directed to **[**a prospective client**]** people who are seeking legal services for themselves. Rather, it is usually addressed to an individual acting in a fiduciary capacity seeking a supplier of legal services for others who may, if they choose, become prospective clients of the lawyer. Under these circumstances, the activity which the lawyer undertakes in communicating with such representatives and the type of information transmitted to the individual are functionally similar to and serve the same purpose as advertising permitted under Rule 7.2. Subsection (i) of this Rule would permit an attorney to participate with an organization which uses personal contact to solicit members for its group or prepaid legal service plan, provided that the personal contact is not undertaken by any lawyer who would be a provider of legal services through the plan.

Subsection (i) of this Rule permits a lawyer to participate with an organization which uses personal contact to solicit members for its group or prepaid legal service plan, provided that the personal contact is not undertaken by any lawyer who would be a provider of legal

services through the plan. The organization must not be owned by or directed (whether as manager or otherwise) by any lawyer or law firm that participates in the plan. For example, subsection (i) would not permit a lawyer to create an organization controlled directly or indirectly by the lawyer and use the organization for the in-person or telephone solicitation of legal employment of the lawyer through memberships in the plan or otherwise. The communication permitted by these organizations also must not be directed to a person known to need legal services in a particular matter, but is to be designed to inform potential plan members generally of another means of affordable legal services. Lawyers who participate in a legal service plan must reasonably assure that the plan sponsors are in compliance with Rules 7.1, 7.2 and 7.3 (b). See 8.4 (a).

AMENDMENT NOTE: The revisions to this rule are made in light of the revisions to Rule 1.18, which can be understood to limit the class of ''prospective clients'' to those who have shared information with the lawyer. This rule, to the contrary, is intended to cover contacts with all possible future clients. The revisions to the commentary to this rule are intended to clarify ''solicitations'' governed by the rule.

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.

(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.

(d) Certification as a specialist may not be attributed to a law firm.

(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) Elder law: The practice of law involving the counseling and representation of older persons and their representatives relative to the legal aspects of health and long term care planning and financing; public benefits; alternative living arrangements and attendant residents' rights under state and federal law; special needs counseling; surrogate decision making; decision making capacity; conservatorships; conservation, disposition, and administration of the estates of older persons and the implementation of decisions of older persons and their representatives relative to the foregoing with due consideration to the applicable tax consequences of an action, involving, when appropriate, consultation and collaboration with professionals in related disciplines. Lawyers certified in elder law must be capable of recognizing issues that arise during counseling and representation of older persons or their representatives with respect to the following: Abuse, neglect or exploitation of older persons; estate, trust, and tax planning; other probate matters. Elder law specialists must be capable

of recognizing the professional conduct and ethical issues that arise during representation.

[(15)**]**(16) 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)**]**(17) 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)**]**(18) Family and matrimonial: The practice of law dealing with all aspects of antenuptial and domestic relationships, separation and divorce, alimony and child support, distribution of assets, child custody matters and adoption, giving due consideration to the tax consequences, and court proceedings relating thereto.

[(18)**]**(19) 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)**]**(20) 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)**]**(21) 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)**]**(22) 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)**]**(23) 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)**]**(24) 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)**]**(25) 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)**]**(26) (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, prop-

erty taxes, real estate development and financing (with due consideration to tax and securities consequences) and determination of property rights.

[(26)**]**(27) 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)**]**(28) 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 NOTE: The amendments to this section add ''Elder Law'' as a field of law in which a lawyer may be certified and renumber the remaining subdivisions accordingly.

Rule 8.4. Misconduct

It is professional misconduct for a lawyer to:

(1) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(2) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

(3) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(4) Engage in conduct that is prejudicial to the administration of justice;

(5) State or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; or

(6) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

COMMENTARY: Lawyers are subject to discipline when they violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so or do so through the acts of another, as when they request or instruct an agent to do so on the lawyer's behalf. Subdivision (1), however, does not prohibit a lawyer from advising a client concerning action the client is legally entitled to take.

Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return. However, some kinds of offenses carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving "moral turpitude." That concept can be construed to include offenses concerning some matters of personal morality, such as adultery and comparable offenses, that have no specific connection to fitness for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust, or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation. Counseling or assisting a client with regard to conduct expressly permitted under Connecticut law is not conduct that reflects

adversely on a lawyer's fitness notwithstanding any conflict with federal law. Nothing in this commentary shall be construed to provide a defense to a presentment filed pursuant to Practice Book Section 2-41.

A lawyer who, in the course of representing a client, knowingly manifests by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socio-economic status, violates subdivision (4) when such actions are prejudicial to the administration of justice. Legitimate advocacy respecting the foregoing factors does not violate subdivision (4).

A lawyer may refuse to comply with an obligation imposed by law upon a good faith belief that no valid obligation exists. The provisions of Rule 1.2 (d) concerning a good faith challenge to the validity, scope, meaning or application of the law apply to challenges of legal regulation of the practice of law.

Lawyers holding public office assume legal responsibilities going beyond those of other citizens. A lawyer's abuse of public office can suggest an inability to fulfill the professional role of lawyers. The same is true of abuse of positions of private trust, such as trustee, executor, administrator, guardian, agent and officer, director or manager of a corporation or other organization.

AMENDMENT NOTE: The addition to the commentary to this rule clarifies that counseling or assisting a client with regard to conduct expressly permitted under Connecticut law, as is allowed pursuant to the amendments to Rule 1.2 and its commentary, is not conduct that reflects adversely on a lawyer's fitness to practice law.

Rule 8.5. Disciplinary Authority; Choice of Law

(a) Disciplinary Authority. A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction, regard-

less of where the lawyer's conduct occurs. A lawyer not admitted in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the lawyer provides or offers to provide any legal services in this jurisdiction. A lawyer may be subject to the disciplinary authority of both this jurisdiction and another jurisdiction for the same conduct.

(b) Choice of Law. In any exercise of the disciplinary authority of this jurisdiction, the rules of professional conduct to be applied shall be as follows:

(1) For conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise; and

(2) For any other conduct, the rules of the jurisdiction in which the lawyer's conduct occurred, or, if the predominant effect of the conduct is in a different jurisdiction, the rules of that jurisdiction shall be applied to the conduct. A lawyer shall not be subject to discipline if the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect of the lawyer's conduct will occur.

COMMENTARY: **Disciplinary Authority.** It is longstanding law that the conduct of a lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction. Extension of the disciplinary authority of this jurisdiction to other lawyers who provide or offer to provide legal services in this jurisdiction is for the protection of the citizens of this jurisdiction. Reciprocal enforcement of a jurisdiction's disciplinary findings and sanctions will further advance the purposes of this Rule. See Rules 6 and 22, ABA *Model Rules for Lawyer Disciplinary Enforcement.* A lawyer who is admitted pursuant to Prac-

tice Book Sections 2-16 or 2-17 et seq. is subject to the disciplinary authority of this jurisdiction under Rule 8.5 (a) and appoints an official to be designated by this Court to receive service of process in this jurisdiction. The fact that the lawyer is subject to the disciplinary authority of this jurisdiction may be a factor in determining whether personal jurisdiction may be asserted over the lawyer for civil matters.

Choice of Law. A lawyer may be potentially subject to more than one set of rules of professional conduct which impose different obligations. The lawyer may be licensed to practice in more than one jurisdiction with differing rules, or may be admitted to practice before a particular court with rules that differ from those of the jurisdiction or jurisdictions in which the lawyer is licensed to practice. Additionally, the lawyer's conduct may involve significant contacts with more than one jurisdiction.

Subsection (b) seeks to resolve such potential conflicts. Its premise is that minimizing conflicts between rules, as well as uncertainty about which rules are applicable, is in the best interest of both clients and the profession (as well as the bodies having authority to regulate the profession). Accordingly, it takes the approach of (i) providing that any particular conduct of a lawyer shall be subject to only one set of rules of professional conduct, and (ii) making the determination of which set of rules applies to particular conduct as straightforward as possible, consistent with recognition of appropriate regulatory interests of relevant jurisdictions.

Subsection (b) (1) provides that, as to a lawyer's conduct relating to a proceeding pending before a tribunal, the lawyer shall be subject only to the rules of the jurisdiction in which the tribunal sits unless the

rules of the tribunal, including its choice of law rule, provides otherwise. As to all other conduct, including conduct in anticipation of a proceeding not yet pending before a tribunal, subsection (b) (2) provides that a lawyer shall be subject to the rules of the jurisdiction in which the lawyer's conduct occurred, or, if the predominant effect of the conduct is in another jurisdiction, the rules of that jurisdiction shall be applied to the conduct. So long as the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect will occur, the lawyer shall not be subject to discipline under this Rule.

When a lawyer's conduct involves significant contacts with more than one jurisdiction, it may not be clear whether the predominant effect of the lawyer's conduct will occur in a jurisdiction other than the one in which the conduct occurred. So long as the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect will occur, the lawyer shall not be subject to discipline under this Rule. With respect to conflicts of interest, in determining a lawyer's reasonable belief under subsection (b) (2), a written agreement between the lawyer and client that reasonably specifies a particular jurisdiction as within the scope of that paragraph may be considered if the agreement was obtained with the client's informed consent confirmed in the agreement.

If two admitting jurisdictions were to proceed against a lawyer for the same conduct, they should, applying this Rule, identify the same governing ethics rules. They should take all appropriate steps to see that they do apply the same rule to the same conduct, and in all

events should avoid proceeding against a lawyer on the basis of two inconsistent rules.

The choice of law provision applies to lawyers engaged in transnational practice, unless international law, treaties or other agreements between competent regulatory authorities in the affected jurisdictions provide otherwise.

AMENDMENT NOTE: The revision to the commentary of this rule is intended to assist in determining a lawyer's reasonable belief under subsection (b) (2).

PROPOSED AMENDMENTS TO THE GENERAL PROVISIONS OF THE SUPERIOR COURT RULES

(NEW) Sec. 1-25. Actions Subject to Sanctions

(a) No party or attorney shall bring or defend an action, or assert or oppose a claim or contention, unless there is a basis in law and fact for doing so that is not frivolous. Good faith arguments for an extension, modification or reversal of existing law shall not be deemed frivolous.

(b) Except as otherwise provided in these rules, the judicial authority, solely on its own motion and after a hearing, may impose sanctions for actions that include, but are not limited to, the following:

(1) Filing of pleadings, motions, objections, requests or other documents that violate subsection (a) above;

(2) Wilful or repeated failure to comply with rules or orders of the court, including Section 4-7 on personal identifying information;

(3) After prior direction from the court, the filing of any materials or documents that (A) are not relevant and material to the matter before

the court; or (B) contain personal, medical or financial information that is not relevant or material to the matter before the court.

(c) The judicial authority may impose sanctions including, but not limited to, fines pursuant to General Statutes § 51-84; orders requiring the offending party to pay costs and expenses, including attorney's fees; and orders restricting the filing of papers with the court.

(d) Offenders subject to such sanctions may include counsel, self-represented parties, and parties represented by counsel.

COMMENTARY: The Rules of Appellate Procedure list actions that can result in the imposition of sanctions on counsel and parties. Currently, no equivalent rule exists in the rules of the Superior Court. This section, to be used solely upon motion of the judicial authority, identifies actions that can result in the imposition of sanctions, including actions that violate Rule 3.1 of the Rules of Professional Conduct, wilfully or repeatedly failing to comply with the rules or orders of the court or repeated filing of documents or personal, medical or financial information that is not relevant and material to the matter before the trial court. This section provides the judicial authority at the trial level with explicit authority to protect counsel, parties and the court from abuse of the legal process and to hold counsel, self-represented parties and represented parties accountable for improper and inappropriate filings.

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, and that (i) 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**[**,**]** or (ii) he or she is a full-time faculty member or full-time clinical fellow at an accredited Connecticut law school and admitted in a reciprocal or nonreciprocal jurisdiction, 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, or that he or she is a full-time faculty member or full-time clinical fellow at an accredited Connecticut law school and admitted in a reciprocal or nonreciprocal jurisdiction 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**]** the jurisdiction in which the activities were performed, or if performed in a jurisdiction that permits such activity by a lawyer not admitted to practice:

(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) service as authorized house counsel;

(7) service as authorized house counsel in Connecticut before July 1, 2008, or while certified pursuant to Section 2-15A; or

[(6)**]** (8) 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 amendments to subsection (a) would allow full-time faculty members or clinical fellows at accredited Connecticut law schools to be admitted to the Connecticut bar without taking the state bar examination if they are admitted to the bar in either a reciprocal or a *nonreciprocal* jurisdiction. The requirement that an applicant practice law in a reciprocal jurisdiction for five of the immediately preceding ten years has been removed.

The amendments to subsection (b) change the requirement that the activities designated as the ''practice of law'' under this section be performed in a reciprocal jurisdiction. Instead, subsection (b) would require that the activities be performed in a jurisdiction where the applicant is either admitted to the bar or allowed to perform those activities as a lawyer who is not admitted. In addition, the definition of the ''practice of law'' in this section would be expanded to include activity as authorized house counsel, both in and out of state.

Subsection (c) is removed because under subsection (a), as amended, clinical law school faculty members would no longer need to count their work supervising law students to satisfy the requirement

that the applicant engage in the practice of law for five of the immediately preceding ten years.

Sec. 2-38. Appeal from Decision of Statewide Grievance Committee or Reviewing Committee Imposing Sanctions or Conditions

(a) A respondent may appeal to the superior court a decision by the statewide grievance committee or a reviewing committee imposing sanctions or conditions against the respondent, in accordance with Section 2-37 (a). A respondent may not appeal a decision by a reviewing committee imposing sanctions or conditions against the respondent if the respondent has not timely requested a review of the decision by the statewide grievance committee under Section 2-35 (k). Within thirty days from the issuance, pursuant to Section 2-36, of the decision of the statewide grievance committee, the respondent shall: (1) file the appeal with the clerk of the superior court for the judicial district of Hartford and (2) mail a copy of the appeal by certified mail, return receipt requested or with electronic delivery confirmation, to the office of the statewide bar counsel as agent for the statewide grievance committee and to the office of the chief disciplinary counsel.

(b) Enforcement of a final decision **[**by the statewide grievance committee**]** imposing sanctions or conditions against the respondent pursuant to Section 2-35 (i) or Section 2-35 (m), including the publication of the notice of a reprimand in accordance with Section 2-54, shall be stayed for thirty days from the issuance to the parties of such decision. **[**Enforcement of a decision by a reviewing committee imposing sanctions or conditions against the respondent, including

the publication of the notice of a reprimand in accordance with Section 2-54, shall be stayed for thirty days from the issuance to the parties of the final decision of the reviewing committee pursuant to Section 2-35 (g).**]** If within that period the respondent files with the statewide grievance committee a request for review of the reviewing committee's decision, the stay shall remain in effect for thirty days from the issuance by the statewide grievance committee of its final decision pursuant to Section 2-36. If the respondent timely commences an appeal pursuant to subsection (a) of this section, such stay shall remain in full force and effect until the conclusion of all proceedings, including all appeals, relating to the decision imposing sanctions or conditions against the respondent. If at the conclusion of all proceedings, the decision imposing sanctions or conditions against the respondent is rescinded, the complaint shall be deemed dismissed as of the date of the decision imposing sanctions or conditions against the respondent. An application to terminate the stay may be made to the court and shall be granted if the court is of the opinion that the appeal is taken only for delay or that the due administration of justice requires that the stay be terminated.

(c) Within thirty days after the service of the appeal, or within such further time as may be allowed by the court, the statewide bar counsel shall transmit to the reviewing court a certified copy of the entire record of the proceeding appealed from, which shall include the grievance panel's record in the case, as defined in Section 2-32 (i), and a copy of the statewide grievance committee's record or the reviewing committee's record in the case, which shall include a transcript of any testi-

mony heard by it or by a reviewing committee which is required by rule to be on the record, any decision by the reviewing committee in the case, any requests filed pursuant to Section 2-35 (k) of this section, and a copy of the statewide grievance committee's decision on the request for review. By stipulation of all parties to such appeal proceedings, the record may be shortened. The court may require or permit subsequent corrections or additions to the record.

(d) The appeal shall be conducted by the court without a jury and shall be confined to the record. If alleged irregularities in procedure before the statewide grievance committee or reviewing committee are not shown in the record, proof limited thereto may be taken in the court. The court, upon request, shall hear oral argument.

(e) The respondent shall file a brief within thirty days after the filing of the record by the statewide bar counsel. The disciplinary counsel shall file his or her brief within thirty days of the filing of the respondent's brief. Unless permission is given by the court for good cause shown, briefs shall not exceed thirty-five pages.

(f) Upon appeal, the court shall not substitute its judgment for that of the statewide grievance committee or reviewing committee as to the weight of the evidence on questions of fact. The court shall affirm the decision of the committee unless the court finds that substantial rights of the respondent have been prejudiced because the committee's findings, inferences, conclusions, or decisions are: (1) in violation of constitutional provisions, rules of practice or statutory provisions; (2) in excess of the authority of the 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. If the court finds such prejudice, it shall sustain the appeal and, if appropriate, rescind the action of the statewide grievance committee or take such other action as may be necessary. For purposes of further appeal, the action taken by the superior court hereunder is a final judgment.

(g) In all appeals taken under this section, costs may be taxed in favor of the statewide grievance committee in the same manner, and to the same extent, that costs are allowed in judgments rendered by the superior court. No costs shall be taxed against the statewide grievance committee, except that the court may, in its discretion, award to the respondent reasonable fees and expenses if the court determines that the action of the committee was undertaken without any substantial justification. ''Reasonable fees and expenses'' means any expenses not in excess of $7500 which the court finds were reasonably incurred in opposing the committee's action, including court costs, expenses incurred in administrative proceedings, attorney's fees, witness fees of all necessary witnesses, and such other expenses as were reasonably incurred.

COMMENTARY: The amendments to subsection (b) consolidates the language in the first two sentences.

Sec. 2-40. Discipline of Attorneys Convicted of [a Felony and Other Matters] <u>Serious Crimes</u> in Connecticut

(a) **[**The clerk of the superior court location in this state in which an attorney is convicted of a serious crime as defined herein shall transmit,

immediately upon the imposition of sentence, a certificate of the conviction to the disciplinary counsel and to the statewide grievance committee. The attorney shall also notify the disciplinary counsel in writing of his or her conviction. The disciplinary counsel or designee shall, pursuant to Section 2-47, file a presentment against the attorney predicated upon the conviction. No entry fee shall be required for proceedings hereunder. The filing of a presentment shall be discretionary with the disciplinary counsel where the offense for which the attorney has been convicted carries a maximum penalty of a period of incarceration of one year or less.**]** The term ''serious crime,'' as used herein, shall mean any felony, any larceny, any crime where the attorney was or will be sentenced to a term of incarceration, or any other crime that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects, or any crime a necessary element of which, as determined by the statutory or common law definition of the crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, willful failure to file tax returns, violations involving criminal drug offenses, or any attempt, conspiracy or solicitation of another to commit a ''serious crime.''

(b) The term ''conviction,'' as used herein, **[**refers to the disposition of any charge of a serious crime as hereinafter defined**]** shall mean acceptance of a finding of guilty by the superior court, resulting from either a plea of guilty or nolo contendere, or from a verdict after trial **[**or otherwise**]**, and regardless of the pendency of any appeal.

(c) [The term ''serious crime'' as used herein shall mean any felony or any larceny or any crime for which the attorney was sentenced to a term of incarceration or for which a suspended period of incarceration was imposed.] The clerk of the superior court in which an attorney is convicted of any crime shall transmit a certified copy of the judgment of conviction, docket sheet, or other proof of the conviction to the disciplinary counsel and to the statewide grievance committee.

(d) [The provisions of subsection (e) of this section notwithstanding, after sentencing an attorney who has been convicted of a serious crime, the sentencing judge may in his or her discretion enter an order immediately suspending the attorney pending final disposition of a disciplinary proceeding predicated upon the conviction. Thereafter, upon good cause shown, the judge who placed the attorney on suspension or any other judge before whom a presentment is pending may, in the interest of justice, set aside or modify the interim suspension.] Notwithstanding any obligation imposed upon the clerk by subsection (c) of this section, any attorney convicted of any crime shall send written notice of the conviction to the disciplinary counsel and the statewide grievance committee, by certified mail, return receipt requested, or with electronic delivery confirmation, within ten days of the date of the conviction. The written notice shall include the name and address of the court where the finding of guilt was made, the date of the finding of guilt, and the specific section of the applicable criminal, penal, or statutory code upon which the finding of guilt was predicated. An attorney's failure to send timely written notice of his or her conviction required by this section shall constitute misconduct.

(e) Upon receipt of proof of conviction, the disciplinary counsel shall determine whether the crime for which the attorney was convicted is a serious crime, as defined herein. If so, disciplinary counsel shall, pursuant to Section 2-47, file a presentment against the attorney predicated upon the conviction. A certified copy of the finding of guilt shall be conclusive evidence of the commission of that crime in any disciplinary proceeding based upon the finding of guilt. No entry fee shall be required for proceedings hereunder.

[(e)**]**(f) A presentment filed pursuant to this section shall be heard, where practical, by the judge who presided at the **[**sentencing**]** proceeding in which the attorney was convicted. A hearing on the presentment complaint **[**addressing**]** shall address the issue of the **[**eligibility of such attorney to continue the practice of law in this state**]** nature and extent of the final discipline to be imposed and shall be held within **[**thirty**]** sixty days of **[**sentencing or**]** the filing of the presentment.**[**, whichever is later. Such hearing shall be prosecuted by the disciplinary counsel or an attorney designated pursuant to Section 2-48**.** At such hearing the attorney shall have the right to counsel, to be heard in his or her own defense and to present evidence and witnesses in his or her behalf. After such hearing, the judge shall enter an order dismissing the matter or imposing discipline upon such attorney in the form of a suspension for a period of time, disbarment or such other discipline as the judge deems appropriate.**]**

[(f) Whenever the judge enters an order suspending or disbarring an attorney pursuant to subsections (d) or (e) of this section, the judge

may appoint a trustee, pursuant to Section 2-64, to protect the clients' and the attorney's interests.**]**

(g) **[**If an attorney suspended solely under the provisions of this section demonstrates to the court that the underlying judgment of conviction has been vacated or reversed, the court shall vacate the order of interim suspension and place the attorney on active status. The vacating of the interim suspension shall not automatically terminate any other disciplinary proceeding then pending against the attorney.**]** Immediately upon receipt of proof of conviction of an attorney of a serious crime, as defined herein, the disciplinary counsel may also apply to the court for an order of interim suspension. If the attorney was or will be sentenced to a term of incarceration, disciplinary counsel shall seek a suspension during the term of incarceration. The court may, in its discretion, enter an order immediately placing the attorney on interim suspension pending final disposition of a presentment filed pursuant to this section. Thereafter, for good cause shown, the court may, in the interests of justice, set aside or modify the interim suspension.

(h) **[**An attorney's failure to send the written notice required by this section shall constitute misconduct.**]** At the presentment hearing, the attorney shall have the right to counsel, to be heard in his or her own defense and to present evidence and witnesses in his or her behalf. After the hearing, the court shall enter an order dismissing the presentment complaint, or imposing discipline upon such attorney in the form of suspension for a period of time, disbarment or such other discipline as the court deems appropriate. If the conviction was based upon the

lawyer's misappropriation of clients' funds or other property held in trust, the court shall enter an order disbarring the attorney for a minimum of twelve years pursuant to Sections 2-47A and 2-53 (g).

(i) **[**Immunity from prosecution granted to an attorney is not a bar to disciplinary proceedings, unless otherwise ordered by a judge of the superior court. The granting of a pretrial diversion program to an attorney charged with a serious crime as defined herein is not a bar to disciplinary proceedings, unless otherwise ordered by the judge who granted the program to the attorney.**]** Whenever the court enters an order suspending or disbarring an attorney pursuant to a presentment filed under this section, the court may appoint a trustee, pursuant to Section 2-64, to protect the interests of the attorney's clients and to secure the attorney's clients' funds accounts.

(j) If an attorney disciplined solely under the provisions of this section demonstrates to the court that the underlying judgment of conviction was later vacated or reversed, the court shall vacate any disciplinary order entered pursuant to the conviction, and place the attorney on active status. The vacating of such disciplinary order shall not automatically terminate any other disciplinary proceeding then pending against the attorney.

(k) Immunity from prosecution granted to an attorney is not a bar to disciplinary proceedings, unless otherwise ordered by the court. The granting of a pretrial diversion program to an attorney charged with a serious crime, as defined herein, is not a bar to disciplinary proceedings, unless otherwise ordered by the court that granted the program to the attorney.

COMMENTARY: The amendments to this section allow for the filing of a presentment and for an immediate interim suspension to be sought against an attorney who has been found guilty of a serious crime following the acceptance of a finding of guilt by plea or verdict after trial. Public confidence in the judicial system will be enhanced by the filing of a presentment and interim suspension immediately following a finding of guilt that an attorney has committed a serious crime. This amendment also substantially adopts the definition of ''serious crime'' promulgated by the ABA Model Rules for Lawyers Disciplinary Enforcement, Rule 19 C.

Sec. 2-41. Discipline of Attorneys [Convicted] Found Guilty of [a Felony and Other Matters] Serious Crimes in Another Jurisdiction

[(a) An attorney shall send to the disciplinary counsel written notice of his or her conviction in any court of the United States, or the District of Columbia, or of any state, territory, commonwealth or possession of the United States of a serious crime as hereinafter defined within ten days of the entry of the judgment of conviction. That written notice shall be sent by certified mail, return receipt requested or with electronic delivery confirmation.

(b) The term ''conviction'' as used herein refers to the disposition of any charge of a serious crime as hereinafter defined resulting from either a plea of guilty or nolo contendere or from a verdict after trial or otherwise, and regardless of the pendency of any appeal.

(c)**]** (a) The term ''serious crime,'' as used herein, shall mean any felony **[**or**]**, any larceny **[**as defined in the jurisdiction in which the

attorney was convicted**]**, or any crime **[**for which**]** where the attorney was or will be sentenced to a term of incarceration, or **[**for which a suspended period of incarceration or a period of probation was imposed**]** any other crime that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects, or any crime a necessary element of which, as determined by the statutory or common law definition of the crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, willful failure to file tax returns, violations involving criminal drug offenses, or any attempt, conspiracy or solicitation of another to commit a ''serious crime.''

(b) The term ''conviction,'' as used herein, shall mean acceptance of a finding of guilty by a court of competent judrisdiction, resulting from either a plea of guilty or nolo contendere, or from a verdict after trial, and regardless of the pendency of any sentencing or appeal.

(c) The term ''another jurisdiction,'' as used herein, shall mean any state court, other than the Connecticut Superior Court, any federal court, any District of Columbia court or any court from a commonwealth or possession of the United States.

[(d) The written notice required by subsection (a) of this section shall include the name and address of the court in which the judgment of conviction was entered, the date of the judgment of conviction, and the specific section of the applicable criminal or penal code upon which the conviction is predicated.**]**

(d) Any attorney convicted of any crime in another jurisdiction shall send written notice of the conviction to the disciplinary counsel and

the statewide grievance committee, by certified mail, return receipt requested, or with electronic delivery confirmation, within ten days of the date of the conviction. The written notice shall include the name and address of the court where the finding of guilt was made, the date of the finding of guilt, and the specific section of the applicable criminal, penal, or statutory code upon which the finding of guilt was predicated. An attorney's failure to send timely written notice of the conviction required by this section shall constitute misconduct.

(e) Upon receipt of the written notice of the conviction in another jurisdiction, the disciplinary counsel shall determine whether the crime for which the attorney was convicted is a ''serious crime,'' as defined herein. If so, disciplinary counsel shall obtain a certified copy of the **[**attorney's judgment**]** finding of **[**conviction**]** guilt, which **[**certified copy**]** shall be conclusive evidence of the commission of that crime in any disciplinary proceeding **[**instituted against that attorney on the basis of**]** based upon the finding of **[**the conviction**]** guilt. Upon receipt of the certified copy of the **[**judgment**]** finding of **[**conviction**]** guilt, the disciplinary counsel shall, pursuant to Section 2-47, file a presentment against the attorney **[**with the superior court for the judicial district wherein the attorney maintains an office for the practice of law in this state, except that, if the attorney has no such office, the disciplinary counsel shall file it with the superior court for the judicial district of Hartford**]** predicated upon the conviction. **[**The filing of a presentment shall be discretionary with the disciplinary counsel where the offense for which the attorney has been convicted carries a maximum penalty of a period of incarceration of one year or less. The sole issue to be

determined in the presentment proceeding shall be the extent of the final discipline to be imposed, provided that the presentment proceeding instituted will not be brought to hearing until all appeals from the conviction are concluded unless the attorney requests that the matter not be deferred. The disciplinary counsel shall also apply to the court for an order of immediate interim suspension, which application shall contain the certified copy of the judgment of conviction. The court may, in its discretion, enter an order immediately suspending the attorney pending final disposition of a disciplinary proceeding predicated upon the judgment of conviction. Thereafter, upon good cause shown, the court may, in the interest of justice, set aside or modify the interim suspension. Whenever the court enters an order suspending or disbarring an attorney pursuant to this section, the court may appoint a trustee, pursuant to Section 2-64, to protect the clients' and the attorney's interests.**]** No entry fee shall be required for proceedings hereunder.

(f) **[**If an attorney suspended solely under the provisions of this section demonstrates to the court that the underlying judgment of conviction has been vacated or reversed, the court shall vacate the order of interim suspension and place the attorney on active status. The vacating of the interim suspension shall not automatically terminate any other disciplinary proceeding then pending against the attorney.**]** A presentment filed pursuant to this section shall be filed in the judicial district where the attorney maintains an office for the practice of law in this state. If the attorney has no office for the practice of law in this state, the disciplinary counsel shall file the presentment in the

superior court for the judicial district of Hartford. A hearing on the presentment complaint shall address the issue of the nature and extent of the final discipline to be imposed, and shall be held within sixty days of the filing of the presentment.

(g) **[**An attorney's failure to send the written notice required by this section shall constitute misconduct.**]** The disciplinary counsel may also apply to the court for an order of interim suspension, which application shall contain a certified copy of the finding of guilt. If the attorney was or will be sentenced to a term of incarceration, disciplinary counsel shall seek a suspension for the term of incarceration. The court may, in its discretion, enter an order immediately placing the attorney on interim suspension pending final disposition of the presentment filed pursuant to this section. Thereafter, for good cause shown, the court may, in the interests of justice, set aside or modify the interim suspension.

(h) **[**No entry fee shall be required for proceedings hereunder.**]** At the presentment hearing, the attorney shall have the right to counsel, to be heard in his or her own defense, and to present evidence and witnesses in his or her behalf. After the hearing, the court shall enter an order dismissing the presentment complaint, or imposing discipline upon such attorney in the form of suspension for a period of time, disbarment or such other discipline as the court deems appropriate. If the conviction was based on the lawyer's misappropriation of clients' funds or other property held in trust, the court shall enter an order disbarring the convicted attorney for a minimum of twelve years pursuant to Sections 2-47A and 2-53 (g).

(i) **[**Immunity from prosecution granted to an attorney is not a bar to disciplinary proceedings, unless otherwise ordered by a judge of the superior court. The granting of a pretrial diversion program to an attorney charged with a serious crime as defined herein is not a bar to disciplinary proceedings, unless otherwise ordered by the judge who granted the program to the attorney.**]** Whenever the court enters an order suspending or disbarring an attorney pursuant to a presentment filed under this section, the court may appoint a trustee, pursuant to Section 2-64, to protect the interests of the attorney's clients and to secure the attorney's clients' funds accounts.

(j) If an attorney disciplined solely under the provisions of this section demonstrates to the court that the attorney's conviction was later vacated or reversed, the court shall vacate any disciplinary order entered pursuant to this section. The vacating of such disciplinary order shall not automatically terminate any other disciplinary proceeding then pending against the attorney.

(k) Immunity from prosecution granted to an attorney is not a bar to disciplinary proceedings, unless otherwise ordered by the court. The granting of a pretrial diversion program to an attorney charged with a serious crime, as defined herein, is not a bar to disciplinary proceedings, unless otherwise ordered by the court that granted the program to the attorney.

COMMENTARY: The amendments to this section allow for the filing of a presentment and for an immediate interim suspension to be sought against an attorney who has been found guilty of a serious crime following a finding of guilt by plea or verdict after trial. This is consistent

with the federal rule currently in effect and allows the court to consider disciplinary action without the delay caused by waiting for the imposition of sentence. Public confidence in the judicial system will be enhanced by the filing of a presentment and interim suspension immediately following a finding of guilt that an attorney has committed a serious crime. This amendment also substantially adopts the definition of ''serious crime'' promulgated by the ABA Model Rules for Lawyers Disciplinary Enforcement, Rule 19 C.

Sec. 2-47A. Disbarment of Attorney for Misappropriation of Funds

In any disciplinary proceeding where there has been a finding by a judge of the superior court that a lawyer has knowingly misappropriated a client's funds or other property held in trust the discipline for such conduct shall be disbarment for a minimum of twelve years.

COMMENTARY: Section 2-53 (g) states that an application for reinstatement by an attorney disbarred pursuant to Section 2-47A cannot be considered until after twelve years from the date of the order of disbarment. This amendment makes it clear that a disbarment under 2-47A has to be for a minimum of twelve years.

Sec. 3-4. Filing Appearance

Appearances shall be filed with the clerk of the court location where the matter is pending.

(a) Whenever an appearance is filed in any civil or family action, including appearances filed in addition to or in place of another appear-

ance, a copy shall be mailed or delivered to all counsel and self-represented parties of record.

(b) Whenever an appearance is filed in summary process actions, including appearances filed in addition to or in place of another appearance, the attorney for the defendant, or, if there is no such attorney, the defendant himself or herself, shall mail or deliver a copy of the appearance to the attorney for the plaintiff, or if there is no such attorney, to the plaintiff himself or herself.

(c) Whenever an appearance is filed in delinquency**[**,**]** or family with service needs **[**or youth in crisis**]** proceedings, including appearances filed in addition to or in place of another appearance, the attorney or guardian ad litem for the respondent, or for any other interested party, shall mail or deliver a copy of the appearance to the prosecutorial official and all other counsel and self-represented parties of record; in child protection proceedings, the attorney or guardian ad litem for the child, respondent, or any other interested party, shall mail or deliver a copy of the appearance to the attorney for the petitioner and to all other counsel and self-represented parties of record.

(d) Whenever an appearance is filed in criminal cases, including appearances filed in addition to or in place of another appearance, the attorney for the defendant shall mail or deliver a copy of the appearance to the prosecuting authority.

COMMENTARY: The definition of ''youth in crisis'' was removed from the General Statutes pursuant to Public Act 09-7 (September Special Session). The changes to this section make the section consistent with the General Statutes.

Sec. 4-1. Form of Pleading

(a) All documents filed in paper format shall be typed or printed on size $8^{1/2}$ by 11 inch paper, [and] shall have no back or cover sheet, and shall include a page number on each page. Those subsequent to the complaint shall be headed with the title and number of the case, the name of the court, and the date and designation of the particular pleading, in conformity with the applicable form in the rules of practice which is set forth in the Appendix of Forms in this volume.

(b) At the bottom of the first page of each paper, a blank space of approximately two inches shall be reserved for notations of receipt or time of filing by the clerk and for statements by counsel pursuant to Section 11-18 (a) (2). Papers shall be punched with two holes, two and twelve-sixteenths inches apart, each centered seven-sixteenths of an inch from the upper edge, one being two and fourteen-sixteenths inches from the lefthand edge and the other being the same distance from the right-hand edge, and each four-sixteenths of an inch in diameter.

(c) All documents filed electronically shall be in substantially the same format as required by subsection (a) of this section.

(d) The clerk may require a party to correct any filed paper which is not in compliance with this section by substituting a paper in proper form.

(e) This section shall not apply to forms supplied by the judicial branch.

COMMENTARY: The revision to this section will facilitate organization of, and ease of reference to, the documents in question. The

requirement to include a page number on each page of a document does not apply to exhibits.

Sec. 6-3. —Preparation; When; By Whom; Filing

(a) Judgment files in civil, criminal, family and juvenile cases shall be prepared when: (1) an appeal is taken; (2) a party requests in writing that the judgment be incorporated into a judgment file; (3) a judgment has been entered involving the granting of a dissolution of marriage or civil union, a legal separation, an annulment, injunctive relief, or title to property (including actions to quiet title but excluding actions of foreclosure), except in those instances where judgment is entered in such cases pursuant to Section 14-3 and no appeal has been taken from the judicial authority's judgment; (4) a judgment has been entered in a juvenile matter involving allegations that a child has been neglected, abused, or uncared for, or involving termination of parental rights, commitment of a delinquent child or commitment of a child from a family with service needs; (5) in criminal cases, sentence review is requested; or (6) ordered by the judicial authority.

(b) Unless otherwise ordered by the judicial authority, the judgment file in juvenile cases shall be prepared by the clerk and in all other cases, in the clerk's discretion, by counsel or the clerk. As to judgments of foreclosure, the clerk's office shall prepare a certificate of judgment in accordance with a form prescribed by the chief court administrator only when requested in the event of a redemption. In those cases in which a plaintiff has secured a judgment of foreclosure under authority of General Statutes § 49-17, when requested, the clerk shall prepare

a decree of foreclosure in accordance with a form prescribed by the chief court administrator.

(c) Judgment files in family cases shall be filed within sixty days of judgment.

COMMENTARY: The amendment to this section allows the clerk to prepare a decree of foreclosure in connection with matters under General Statutes § 49-17.

PROPOSED AMENDMENTS TO THE CIVIL RULES

Sec. 8-2. Waiver of Court Fees and Costs

(a) Prior to the commencement of an action, or at any time during its pendency, a party may file with the clerk of the court in which the action is pending, or in which the party intends to return a writ, summons and complaint, an application for waiver of fees payable to the court and for payment by the state of the costs of service of process. The application shall set forth the facts which are the basis of the claim for waiver and for payment by the state of any costs of service of process; a statement of the applicant's current income, expenses, assets and liabilities; pertinent records of employment, gross earnings, gross wages and all other income; and the specific fees and costs of service of process sought to be waived or paid by the state and the amount of each. The application and any representations shall be supported by an affidavit of the applicant to the truth of the facts recited.

(b) The clerk with whom such an application is filed shall refer it to the court of which he or she is clerk. If the court finds that a party is indigent and unable to pay a fee or fees payable to the court or to

pay the cost of service of process, the court shall waive such fee or fees and the cost of service of process shall be paid by the state.

(c) There shall be a rebuttable presumption that a person is indigent and unable to pay a fee or fees or the cost of service of process if (1) such person receives public assistance or (2) such person's income after taxes, mandatory wage deductions and child care expenses is one hundred twenty-five per cent or less of the federal poverty level. For purposes of this subsection, ''public assistance'' includes, but is not limited to, state administered general assistance, temporary family assistance, aid to the aged, blind and disabled, food stamps and supplemental security income. (d) Nothing in this section shall preclude the court from finding that a person whose income does not meet the criteria of subsection (c) of this section is indigent and unable to pay a fee or fees or the cost of service of process. If an application for the waiver of the payment of a fee or fees or the cost of service of process is denied, the court clerk shall, upon the request of the applicant, schedule a hearing on the application.

(d) Nothing in this section shall preclude the court from (1) finding that a person whose income does not meet the criteria of subsection (c) of this section is indigent and unable to pay a fee or fees or the cost of service of process, or (2) denying an application for the waiver of the payment of a fee or fees or the cost of service of process when the court finds that (A) the applicant has repeatedly filed actions with respect to the same or similar matters, (B) such filings establish an extended pattern of frivolous filings that have been without merit, (C) the application sought is in connection with an action before the court

that is consistent with the applicant's previous pattern of frivolous filings, and (D) the granting of such application would constitute a flagrant misuse of Judicial Branch resources.

If an application for the waiver of the payment of a fee or fees or the cost of service of process is denied, the court clerk shall, upon the request of the applicant, schedule a hearing on the application. Nothing in this section shall affect the inherent authority of the court to manage its docket.

COMMENTARY: The revisions to this section are consistent with the provisions of General Statutes § 52-259b as amended by Public Act 13-310.

Sec. 9-9. —Procedure for Class Certification and Management of Class

(a) (1) (A) When a person sues or is sued as a representative of a class, the court must, at an early practicable time, determine by order whether to certify the action as a class action.

(B) An order certifying a class action must define the class and the class claims, issues or defenses, and must appoint class counsel.

(C) An order under Section 9-9 (a) (1) (A) may be altered or amended before final judgment.

(2) (A) For any class certified under Section 9-8 (1) or (2), the court must direct notice to the class.

(B) For any class certified under Section 9-8 (3), the court must direct to class members the best notice practicable under the circumstances, including individual notice to all members who can be identified through

reasonable effort. The notice must concisely and clearly state in plain, easily understood language:

(i) the nature of the action;

(ii) the definition of the class certified;

(iii) the class claims, issues or defenses;

(iv) that a class member may enter an appearance through counsel if the member so desires;

(v) that the court will exclude from the class any member who requests exclusion, stating when and how members may elect to be excluded; and

(vi) the binding effect of a class judgment on class members under Section 9-8 (3).

(3) The judgment in an action maintained as a class action under Section 9-8 (1) or (2), whether or not favorable to the class, shall include and describe those whom the court finds to be members of the class. The judgment in an action maintained as a class action under Section 9-8 (3), whether or not favorable to the class, shall include and specify or describe those to whom the notice provided in Section 9-9 (a) (2) (B) was directed, and who have not requested exclusion, and whom the court finds to be members of the class.

(4) When appropriate, (A) an action may be brought or maintained as a class action with respect to particular issues, or (B) a class may be divided into subclasses and each subclass treated as a class, and the provisions of Sections 9-7 and 9-8 shall then be construed and applied accordingly.

(b) In the conduct of actions to which Section 9-7 et seq. apply, the court may make appropriate orders:

(1) determining the course of proceedings or prescribing measures to prevent undue repetition or complication in the presentation of evidence or argument;

(2) requiring, for the protection of the members of the class or otherwise for the fair conduct of the action, that notice be given in such manner as the court may direct to some or all of the members of:

(i) any step in the action;

(ii) the proposed extent of the judgment; or

(iii) the opportunity of members to signify whether they consider the representation fair and adequate, to intervene and to present claims or defenses, or otherwise to come into the action;

(3) imposing conditions on the representative parties or on intervenors;

(4) requiring that the pleadings be amended to eliminate therefrom allegations as to representation of absent persons, and that the action proceed accordingly;

(5) dealing with similar procedural matters. The orders may be altered or amended as may be desirable from time to time.

(c) (1) (A) The court must approve any settlement, withdrawal, or compromise of the claims, issues, or defense of a certified class. Court approval is not required for settlement, withdrawal or compromise of a claim in which a class has been alleged but no class has been certified.

(B) The court must direct notice in a reasonable manner to all class members who would be bound by a proposed settlement, withdrawal or compromise.

(C) The court may approve a settlement, withdrawal, or compromise that would bind class members only after a hearing and on finding that the settlement, withdrawal, or compromise is fair, reasonable, and adequate.

(2) The parties seeking approval of a settlement, withdrawal, or compromise of an action in which a class has been certified must file a statement identifying any agreement made in connection with the proposed settlement, withdrawal or compromise.

(3) In an action previously certified as a class action under Section 9-8 (3), the court may refuse to approve a settlement unless it affords a new opportunity to request exclusion to individual class members who had an earlier opportunity to request exclusion but did not do so.

(4) (A) Any class member may object to a proposed settlement, withdrawal or compromise that requires court approval under (c) (1) (A).

(B) An objection made under (c) (4) (A) may be withdrawn only with the court's approval.

(d) Unless a statute provides otherwise, a court that certifies a class must appoint class counsel. An attorney appointed to serve as class counsel must fairly and adequately represent the interests of the class.

(1) In appointing class counsel, the court must consider:

(i) the work counsel has done in identifying or investigating potential claims in the action;

(ii) counsel's experience in handling class actions, other complex litigation, and claims of the type asserted in the action;

(iii) counsel's knowledge of the applicable law; and

(iv) the resources counsel will commit to representing the class.

(2) The court may:

(i) consider any other matter pertinent to counsel's ability to represent the interests of the class fairly and adequately;

(ii) direct potential class counsel to provide information on any subject pertinent to the appointment and to propose terms for attorney's fees and nontaxable costs; and

(iii) make further orders in connection with the appointment.

(e) The court may designate interim counsel to act on behalf of the putative class before determining whether to certify the action as a class action. When there is one applicant for appointment as class counsel, the court may appoint that applicant only if the applicant is adequate under subsection (d). If more than one adequate applicant seeks appointment as class counsel, the court must appoint the applicant best able to represent the interests of the class. The order appointing class counsel may include provisions about the award of attorney's fees or nontaxable costs under subsection (f).

(f) In an action certified as a class action, the court may award reasonable attorney's fees and nontaxable costs authorized by law or by consent of the parties as follows:

(1) a request for an award of attorney's fees and nontaxable costs must be made by motion subject to the provisions of this subdivision, at a time set by the court. Notice of the motion must be served on all

parties and, for motions by class counsel, directed to class members in a reasonable manner.

(2) A class member or a party from whom payment is sought, may object to the motion.

(3) The court may hold a hearing and must find the facts and state its conclusions of law on such motion.

(g) (1) ''Residual funds'' are funds that remain after the payment of approved class member claims, expenses, litigation costs, attorney's fees, and other court-approved disbursements made to implement the relief granted. Nothing in this rule is intended to limit the parties to a class action from recommending, or the trial court from approving, a settlement that does not create residual funds.

(2) Any order, judgment or approved settlement in a class action that establishes a process for identifying and compensating members of the class may designate the recipient or recipients of any such residual funds that may remain after the claims payment process has been completed. In the absence of such designation, the residual funds shall be disbursed to the organization administering the program for the use of interest on lawyers' client funds pursuant to General Statutes § 51-81c for the purpose of funding those organizations that provide legal services for the poor in Connecticut.

COMMENTARY: The amendments to this section define ''Residual Funds'' in class actions and establish a process by which, and to whom, the judicial authority may disburse such funds.

Sec. 10-14. —Proof of Service

(a) Proof of service pursuant to Section 10-12 (a) and (b) may be made by written acknowledgment of service by the party served, by a certificate of counsel for the party filing the pleading or paper or by the self-represented party, or by affidavit of the person making the service, but these methods of proof shall not be exclusive. Proof of service shall include the address at which such service was made. If proof of such service is made by a certificate of counsel or by the self-represented party, it shall be in substantially the following form:

I **[**hereby**]** certify that a copy of the above was or will immediately be mailed or **[**electronically**]** delivered electronically or non-electronically on *(Date)* to all counsel and self-represented parties of record and that written consent for electronic delivery was received from all counsel and self-represented parties of record who were or will immediately be electronically served. *(Here list the name of each party served or immediately to be served and the address at which service was made or will immediately be made.)*

Or

to the party against whom the default for failure to appear is claimed. *(Here list the name of each nonappearing party served or immediately to be served and the address at which service was made or will immediately be made.)*

(Individual Signature of

Counsel or Self-Represented Party)

(b) Proof of service pursuant to Section 10-12 (c) shall be made in the same manner as proof of service is made of an original writ and

complaint, unless the judicial authority ordered service in some other manner in which event service may be proved as prescribed in subsection (a) above.

COMMENTARY: The changes to this section clarify the process of certifying proof of service.

Sec. 10-30. Motion to Dismiss; Grounds

(a) A motion to dismiss shall be used to assert: (1) lack of jurisdiction over the subject matter; (2) lack of jurisdiction over the person; (3) **[**improper venue; (4)**]** insufficiency of process; and **[**(5)**]** (4) insufficiency of service of process.

(b) Any defendant, wishing to contest the court's jurisdiction, shall do so by filing a motion to dismiss within thirty days of the filing of an appearance.

(c) This motion shall always be filed with a supporting memorandum of law and, where appropriate, with supporting affidavits as to facts not apparent on the record.

COMMENTARY: Section 51-351 of the General Statutes, which became effective July 1, 1978, provides that "**[**n**]**o cause shall fail on the ground that it has been made returnable to an improper location." Since that statute became effective, the courts have found that the appropriate remedy for improper venue is the transfer of the case to the proper venue by the court upon its own motion, or upon motion or agreement of the parties. The revision to this section, therefore, removes improper venue as grounds for filing a motion to dismiss.

Sec. 10-39. Motion to Strike; Grounds

(a) A motion to strike shall be used whenever any party wishes to contest: (1) the legal sufficiency of the allegations of any complaint, counterclaim or cross claim, or of any one or more counts thereof, to state a claim upon which relief can be granted; or (2) the legal sufficiency of any prayer for relief in any such complaint, counterclaim or cross complaint; or (3) the legal sufficiency of any such complaint, counterclaim or cross complaint, or any count thereof, because of the absence of any necessary party or, pursuant to Section 17-56 (b), the failure to join or give notice to any interested person; or (4) the joining of two or more causes of action which cannot properly be united in one complaint, whether the same be stated in one or more counts; or (5) the legal sufficiency of any answer to any complaint, counterclaim or cross complaint, or any part of that answer including any special defense contained therein**[**, that party may do so by filing a motion to strike the contested pleading or part thereof**]**.

(b) Each claim of legal insufficiency enumerated in this section shall be separately set forth and shall specify the reason or reasons for such claimed insufficiency.

(c) Each motion to strike must be accompanied by a memorandum of law citing the legal authorities upon which the motion relies.

(d) A motion to strike on the ground of the nonjoinder of a necessary party or noncompliance with Section 17-56 (b) must give the name and residence of the missing party or interested person or such information as the moving party has as to the identity and residence of

the missing party or interested person and must state the missing party's or interested person's interest in the cause of action.

COMMENTARY: The amendment to this section deletes unnecessary language.

Sec. 11-1. Form of Motion and Request

Every motion, request, application or objection directed to pleading or procedure, unless relating to procedure in the course of a trial, shall be in writing. A motion to extend time to plead, respond to written discovery, object to written discovery, or respond to requests for admissions shall state the date through which the moving party is seeking the extension.

(a) For civil matters, with the exception of housing, family and small claims matters, when any motion, application or objection is filed either electronically or on paper, no order page should be filed unless an order of notice and citation is necessary.

(b) For family, juvenile, housing and small claims matters, when any motion, application or objection is filed in paper format, an order shall be annexed to the filing until such cases are incorporated into the Judicial Branch's electronic filing system. Once these case types are incorporated into such electronic filing system, no order page should be filed unless an order of notice and citation is necessary.

(c) Whether filed under subsection (a) or (b), such motion, request, application or objection shall be served on all parties as provided in Sections 10-12 through 10-17 and, when filed, the fact of such service shall be endorsed thereon. Any such motion, request, application or

objection, as well as any supporting brief or memorandum, shall include a page number on each page.

COMMENTARY: The revision to this section will facilitate organization of, and ease of reference to, the documents in question.

[Sec. 23-2. Expedited Process Cases

Civil actions which come within the purview of General Statutes § 52-195b (b) (2) may be placed on the expedited process track pursuant to Section 23-3. Expedited process track cases shall follow the procedures set forth in Sections 23-3 through 23-12. Such procedures are subject to any stays ordered by the judicial authority for referral of the case to an alternate dispute resolution program.**]**

COMMENTARY: Sections 23-2 through 23-12 are directed to the implementation of the expedited process track program under General Statutes § 52-195b for certain civil cases arising out of the ownership, maintenance or use of a private passenger motor vehicle. That statute was repealed by Section 15 of Public Act 13-194 and, as a result, Sections 23-2 through 23-12 should be repealed.

[Sec. 23-3. —Placement on the Expedited Process Track

(a) Each plaintiff may file with the complaint a form consenting to placement of the case on the expedited process track, signed by all parties to the action and their attorneys. At the time of filing such consent form and complaint the plaintiff shall file with each other party the responses to discovery required by Section 23-7 (a) (1).

(b) If the case is not brought as an expedited process track case pursuant to subsection (a) at the time the complaint is filed, the parties

may at a later time file forms consenting to expedited process track placement.

(c) The consent to expedited process track placement shall be on a form prescribed by the office of the chief court administrator, or on a form substantially in compliance therewith, and shall be signed by the party and his or her attorney. Such form shall contain a statement that the case is one which may be brought as an expedited process case under General Statutes § 52-195b (b) (2), that the party consents to placement of the case on the expedited process track, and that the party waives the right to a trial by jury, the right to a record of the trial proceedings, and the right to appeal. The form to be filed by each plaintiff shall also contain a statement that the plaintiff agrees to limit the amount in demand to a maximum of $75,000, exclusive of interest and costs. A party filing such form shall serve it on all other parties in accordance with Sections 10-12 through 10-17. The waivers and the limit to the amount in demand shall apply only if the case is placed on the expedited process track.

(d) When all parties to the action have filed a consent to expedited track placement, the plaintiff shall file with the clerk a notice for placement on the expedited process track. Once the notice has been filed, the parties will be limited to the procedures set forth in Sections 23-5 through 23-12, even if discovery, pleadings and other filings not allowed in those sections have previously been filed.**]**

COMMENTARY: Sections 23-2 through 23-12 are directed to the implementation of the expedited process track program under General Statutes § 52-195b for certain civil cases arising out of the ownership,

maintenance or use of a private passenger motor vehicle. That statute was repealed by Section 15 of Public Act 13-194 and, as a result, Sections 23-2 through 23-12 should be repealed.

[Sec. 23-4. —Pleadings Allowed in Expedited Process Track Cases

Only the following pleadings may be filed in expedited process track cases: answers, special defenses, replies to special defenses, counterclaims and cross complaints. The time periods set forth in Section 10-8 for the filing of pleadings shall apply to these cases.**]**

COMMENTARY: Sections 23-2 through 23-12 are directed to the implementation of the expedited process track program under General Statutes § 52-195b for certain civil cases arising out of the ownership, maintenance or use of a private passenger motor vehicle. That statute was repealed by Section 15 of Public Act 13-194 and, as a result, Sections 23-2 through 23-12 should be repealed.

[Sec. 23-5. —Motions Allowed

Only the following motions may be filed in expedited process track cases: motions for nonsuit or default for failure to appear or for failure to plead; motions to substitute, add or implead parties; motions to consolidate; motions to withdraw appearance; motions to amend the amount in demand; and motions to transfer the case from the expedited process track to the regular docket. Except as otherwise provided in Sections 17-20 and 17-32 concerning motions for default for failure to appear and for failure to plead, these motions shall be placed on short calendar. Motions to substitute, add, or implead parties and

motions to consolidate shall be accompanied by a notice that the case has been placed on the expedited process track.**]**

COMMENTARY: Sections 23-2 through 23-12 are directed to the implementation of the expedited process track program under General Statutes § 52-195b for certain civil cases arising out of the ownership, maintenance or use of a private passenger motor vehicle. That statute was repealed by Section 15 of Public Act 13-194 and, as a result, Sections 23-2 through 23-12 should be repealed.

[Sec. 23-6. —Discovery Allowed

Except with regard to discovery required as a result of the management conference to be held pursuant to Section 23-9, discovery in expedited process cases shall be limited to the interrogatories and requests for production set forth in forms 201, 202, 204 and 205 of the rules of practice. These forms are set forth in the Appendix of Forms in this volume. Depositions may be taken, but only of parties to the action. Requests for admission shall not be allowed; admissions of fact will be considered at the management conference.**]**

COMMENTARY: Sections 23-2 through 23-12 are directed to the implementation of the expedited process track program under General Statutes § 52-195b for certain civil cases arising out of the ownership, maintenance or use of a private passenger motor vehicle. That statute was repealed by Section 15 of Public Act 13-194 and, as a result, Sections 23-2 through 23-12 should be repealed.

[Sec. 23-7. —Discovery Procedure for Expedited Process Cases

(a) The following time periods for discovery shall apply to expedited process cases.

(1) Except in cases under Section 23-3 (a) in which the plaintiff complied with discovery at the time of filing the complaint, the plaintiff shall serve on each defendant in accordance with Sections 10-12 through 10-17 responses to forms 202 and 205 of the rules of practice within ten days of the date the notice for placement on the expedited process track was filed.

(2) The defendant shall serve on the plaintiff in accordance with Sections 10-12 through 10-17 responses to forms 201 and 204 of the rules of practice within ten days of the defendant's receipt of the plaintiff's discovery.

(b) Any issues concerning discovery shall be considered by the judicial authority at the management conference; they shall not be placed on the short calendar.**]**

COMMENTARY: Sections 23-2 through 23-12 are directed to the implementation of the expedited process track program under General Statutes § 52-195b for certain civil cases arising out of the ownership, maintenance or use of a private passenger motor vehicle. That statute was repealed by Section 15 of Public Act 13-194 and, as a result, Sections 23-2 through 23-12 should be repealed.

[Sec. 23-8. —Certification That Pleadings Are Closed

Once the pleadings are closed, any party to the action may file a certificate of closed pleadings pursuant to Section 14-8. Such claim

shall state that the case is on the expedited process track and that it is privileged with respect to assignment for trial.**]**

COMMENTARY: Sections 23-2 through 23-12 are directed to the implementation of the expedited process track program under General Statutes § 52-195b for certain civil cases arising out of the ownership, maintenance or use of a private passenger motor vehicle. That statute was repealed by Section 15 of Public Act 13-194 and, as a result, Sections 23-2 through 23-12 should be repealed.

[Sec. 23-9. —Case Management Conference for Expedited Process Track Cases

(a) A case management conference shall be scheduled after the filing of the notice of placement on the expedited process track or the certificate of closed pleadings, whichever occurs sooner. All parties and their attorneys shall attend the conference which shall be presided over by a judge or a judge trial referee. The following matters shall be considered at this conference:

(1) A discussion of the possibility of settlement.

(2) Issues concerning the discovery exchange.

(3) Simplification of the issues.

(4) Amendments to the pleadings.

(5) Admissions of fact, including stipulations of the parties concerning any material matter and admissibility of evidence, particularly photographs, maps, drawings and documents, in order to minimize the time required for trial.

(6) Inspection of hospital records and X-ray films.

(7) Exchange of all medical reports, bills and evidences of special damage which have come into the possession of the parties or of counsel since compliance with discovery.

(8) Such other procedures as may aid in the disposition of the case, including the exchange of medical reports, and the like, which come into the possession of counsel subsequent to the management conference.

(b) The judicial authority may make appropriate orders at the management conference, including the imposition of discovery sanctions under Section 13-14, and such orders shall control the subsequent conduct of the case unless modified at the trial to prevent manifest injustice. Failure to abide by any such orders may subject the offending party to a nonsuit or a default.

(c) At the management conference the judicial authority shall, at the request of any party, address any party on the record to ensure that the party voluntarily, knowingly and intelligently waived the rights to a jury trial, to a record of the trial proceedings and to appeal and that the party understands the expedited process procedure.**]**

COMMENTARY: Sections 23-2 through 23-12 are directed to the implementation of the expedited process track program under General Statutes § 52-195b for certain civil cases arising out of the ownership, maintenance or use of a private passenger motor vehicle. That statute was repealed by Section 15 of Public Act 13-194 and, as a result, Sections 23-2 through 23-12 should be repealed.

[Sec. 23-10. —Transfer to Regular Docket

(a) On motion of a party or on the judicial authority's own motion, the judicial authority may order a case transferred from the expedited process track to the regular docket if any of the following apply:

(1) the movant is a substitute, added or impleaded party who became a party to the case after it was placed on the expedited process track and objects to such placement;

(2) after a case was placed on the expedited process track it was consolidated for trial with a case not eligible for that track or in which any of the parties decline to consent to having the matter proceed as an expedited process case; or (3) the judicial authority determines that good cause exists for the transfer.

(b) The judicial authority shall order a case transferred from the expedited process track to the regular docket upon the filing of an affidavit by the plaintiff or the plaintiff's attorney, with supporting documentation, stating that subsequent to the filing of plaintiff's consent to expedited process track placement the affiant has learned that the damages which may be recovered exceed $75,000, exclusive of interests and costs.**]**

COMMENTARY: Sections 23-2 through 23-12 are directed to the implementation of the expedited process track program under General Statutes § 52-195b for certain civil cases arising out of the ownership, maintenance or use of a private passenger motor vehicle. That statute was repealed by Section 15 of Public Act 13-194 and, as a result, Sections 23-2 through 23-12 should be repealed.

[Sec. 23-11. —Offers of Judgment

The rules concerning offers of judgment shall apply to cases on the expedited process track.**]**

COMMENTARY: Sections 23-2 through 23-12 are directed to the implementation of the expedited process track program under General Statutes § 52-195b for certain civil cases arising out of the ownership, maintenance or use of a private passenger motor vehicle. That statute was repealed by Section 15 of Public Act 13-194 and, as a result, Sections 23-2 through 23-12 should be repealed.

[Sec. 23-12. —Trial of Cases on Expedited Process Track

Cases on the expedited process track shall be tried by a judicial authority without a jury. Witnesses shall be sworn. Medical or other expert witnesses will not be allowed, but reports and records of medical providers may be admitted into evidence. The judicial authority shall not be bound by the technical rules of evidence, but shall make inquiry, through oral testimony or written and printed records, in a manner that is best calculated to ascertain the substantial rights of the parties and carry out the provisions and intent of these rules.**]**

COMMENTARY: Sections 23-2 through 23-12 are directed to the implementation of the expedited process track program under General Statutes § 52-195b for certain civil cases arising out of the ownership, maintenance or use of a private passenger motor vehicle. That statute was repealed by Section 15 of Public Act 13-194 and, as a result, Sections 23-2 through 23-12 should be repealed.

Sec. 24-24. Judgments in Small Claims; When Presence of the Plaintiff or Representative is Not Required for Entry of Judgment

(a) In any action based on an express or implied promise to pay a definite sum and claiming only liquidated damages, which may include interest and reasonable attorney's fees, if the defendant has not filed an answer by the answer date and the judicial authority has not required that a hearing be held concerning any request by the defendant for more time to pay, the judicial authority may render judgment in favor of the plaintiff without requiring the presence of the plaintiff or representative before the court, provided the plaintiff has complied with the provisions of this section and Section 24-8. Nothing contained in this section shall prevent the judicial authority from requiring the presence of the plaintiff or representative before the court prior to rendering any such default and judgment if it appears to the judicial authority that additional information or evidence is required prior to the entry of judgment.

(b) In order for the judicial authority to render any judgment pursuant to this section at the time set for entering a judgment whether by default, stipulation or other method, the following affidavits must have been filed by the plaintiff:

(1) An affidavit of debt signed by the plaintiff or representative who is not the plaintiff's attorney. A small claims writ and notice of suit signed and sworn to by the plaintiff or representative who is not the plaintiff's attorney shall be considered an affidavit of debt for purposes of this section only if it sets forth either the amount due or the principal

owed as of the date of the writ and contains an itemization of interest, attorneys fees and other lawful charges. Any plaintiff claiming interest shall separately state the interest and shall specify the dates from which and to which interest is computed, the rate of interest, the manner in which it was calculated and the authority upon which the claim for interest is based. In those matters involving the collection of credit card and other debt owed to a financial institution and subject to federal requirements for the charging off of accounts, the federally authorized charge-off balance may be treated as the ''principal'' for purposes of this section and itemization regarding such debt is required only from the date of the charge-off balance.

(A) If the instrument on which the contract is based is a negotiable instrument or assigned contract, the affidavit shall state that the instrument or contract is now owned by the plaintiff and a copy of the executed instrument shall be attached to the affidavit. If the plaintiff is not the original party with whom the instrument or contract was made, the plaintiff shall either (1) attach all bills of sale back to the original creditor and swear to its purchase of the debt from the last owner in its affidavit of debt while also referencing the attached chain of title in the affidavit of debt or (2) in the affidavit of debt, recite the names of all prior owners of the debt with the date of each prior sale, and also include the most recent bill of sale from the plaintiff's seller and swear to its purchase of the debt from its seller in the affidavit of debt. If applicable, the allegations shall comply with General Statutes § 52-118.

(B) The affidavit shall simply state the basis upon which the plaintiff claims the statute of limitations has not expired.

(C) If the plaintiff has claimed any lawful fees or charges based on a provision of the contract, the plaintiff shall attach to the affidavit of debt a copy of a portion of the contract containing the terms of the contract providing for such fees or charges and the amount claimed.

(D) If a claim for a reasonable fee for an attorney at law is made, the plaintiff shall include in the affidavit the reasons for the specific amount requested. Any claim for reasonable fees for an attorney at law must be referred to the judicial authority for approval prior to its inclusion in any default judgment.

(2) A military affidavit as required by Section 17-21.

COMMENTARY: The amendment to this rule incorporates the Rules Committee's intention, as noted in its 2011 Commentary to the rule, as regards treatment for purposes of this rule of the federally authorized charge-off balance.

PROPOSED AMENDMENTS TO THE FAMILY RULES

Sec. 25-4. Action for Visitation of Minor Child

Every application or verified petition in an action for visitation of a minor child, other than actions for dissolution of marriage or civil union, legal separation or annulment, shall state the name and date of birth of such minor child or children, the names of the parents and legal guardian of such minor child or children, and the facts necessary to give the court jurisdiction. **[**The**]** An application brought under this section shall comply with Section 25-5. **[**Such**]** Any application or

verified petition brought under this Section shall be commenced by an order to show cause. Upon presentation of the application or verified petition and an affidavit concerning children, the judicial authority shall cause an order to be issued requiring the adverse party or parties to appear on a day certain and show cause, if any there be, why the relief requested in the application or verified petition should not be granted. The application**[,]** or verified petition, order and affidavit shall be served on the adverse party not less than twelve days before the date of the hearing, which shall not be held more than thirty days from the filing of the application or verified petition.

COMMENTARY: Grandparents and other third parties may initiate a visitation action by filing a verified petition. The provisions of Section 25-5 are applicable to parents only. Therefore, only an application is required to comply with that Section.

Sec. 25-31. Discovery and Depositions

Except as otherwise provided in Section 25-33, **[**T**]**the provisions of Sections 13-1 through 13-10 inclusive, 13-13 through 13-16 inclusive, and 13-17 through 13-32 of the rules of practice inclusive, shall apply to family matters as defined in Section 25-1.

COMMENTARY: The proposed revision clarifies that Section 25-33 governs the payment of court-appointed experts in family cases, as opposed to subsection 13-4(c)(2).

Sec. 25-33. Judicial Appointment of Expert Witnesses

Whenever the judicial authority deems it necessary, [on its own motion] it may appoint any expert witnesses of its own selection. The

judicial authority shall give notice of its intention to appoint such expert, and give the parties an opportunity to be heard concerning such appointment. An expert witness shall not be appointed by the judicial authority unless the expert consents to act. An expert witness so appointed shall be informed of his or her duties by the judicial authority in writing, a copy of which shall be filed with the clerk, or the witness shall be informed of his or her duties at a conference in which the parties shall have an opportunity to participate. Such expert witness shall advise the parties of his or her findings, if any, and may thereafter be called to testify by the judicial authority or by any party and shall be subject to cross-examination by each party. The judicial authority may determine the reasonable compensation for such witness and direct payment out of such funds as may be provided by law or by the parties or any of them as the judicial authority may direct. Nothing in this section shall prohibit the parties from retaining their own expert witnesses.

COMMENTARY: This section has been amended to clarify that the provisions of 25-33 apply to any court-appointed expert in a family matter, whether appointed on the court's own motion or otherwise.

Sec. 25-60. Evaluations, [and] Studies, Family Services Mediation Reports and Family Services Conflict Resolution Reports

(a) Whenever, in any family matter, an evaluation or study has been ordered pursuant to Section 25-60A or Section 25-61, or the Court Support Services Division Family Services Unit has been ordered to conduct mediation or to hold a conflict resolution conference pursuant to Section 25-61, the case shall not be disposed of until the report

has been filed as hereinafter provided, and counsel and the parties have had a reasonable opportunity to examine it prior to the time the case is to be heard, unless the judicial authority orders that the case be heard before the report is filed.

(b) Any report of an evaluation or study pursuant to Section 25-60A or Section 25-61, or any mediation report or conflict resolution conference report filed by the Family Services Unit as a result of a referral of the matter to such unit **[**shall be made in quadruplicate**]**, shall be filed with the clerk, who will **[**impound**]** seal such report**[**s**]**, and shall be **[**mailed**]** provided by the filer to counsel of record, guardians ad litem and selfrepresented parties unless otherwise ordered by the judicial authority. **[**Said**]** Any such report shall be available for inspection to counsel of record, guardians ad litem, and the parties to the action, unless otherwise ordered by the judicial authority.

(c) Any report of an evaluation or study prepared pursuant to Section 25-60A or Section 25-61 shall be admissible in evidence provided the author of the report is available for cross-examination.

COMMENTARY: Technical changes have been made to this rule to accommodate e-filing, and it has been updated to include the other confidential reports that are filed by Family Services.

PROPOSED AMENDMENTS TO THE JUVENILE RULES

Sec. 26-1. Definitions Applicable to Proceedings on Juvenile Matters

In these definitions and in the rules of practice and procedure on juvenile matters, the singular shall include the plural and the plural, the singular where appropriate.

(a) The definitions of the terms ''child,'' ''youth,'' **[**''youth in crisis,''**]** ''abused,'' ''mentally deficient,'' ''delinquent,'' ''delinquent act,'' ''neglected,'' ''uncared for,'' ''alcohol-dependent child,'' ''family with service needs,'' ''drug-dependent child,'' ''serious juvenile offense,'' ''serious juvenile offender,'' and ''serious juvenile repeat offender'' shall be as set forth in General Statutes § 46b-120. The definition of ''victim'' shall be as set forth in General Statutes § 46b-122.

(b) ''Commitment'' means an order of the judicial authority whereby custody and/or guardianship of a child or youth are transferred to the commissioner of the department of children and families.

(c) ''Complaint'' means a written allegation or statement presented to the judicial authority that a child's or youth's conduct as a delinquent or situation as a child from a family with service needs **[**or youth in crisis**]** brings the child or youth within the jurisdiction of the judicial authority as prescribed by General Statutes § 46b-121.

(d) ''Detention'' means a secure building or staff secure facility for the temporary care of a child who is the subject of a delinquency complaint.

(e) ''Family support center'' means a community-based service center for children and families involved with a complaint that has been filed with the superior court under General Statutes § 46b-149, that provides multiple services, or access to such services, for the purpose of preventing such children and families from having further involvement with the court as families with service needs.

(f) ''Guardian'' means a person who has a judicially created relationship with a child or youth, which is intended to be permanent and self-sustaining, as evidenced by the transfer to the caretaker of the following

parental rights with respect to the child or youth: protection, education, care and control of the person, custody of the person and decision making.

(g) ''Hearing'' means an activity of the court on the record in the presence of a judicial authority and shall include (1) ''Adjudicatory hearing'': A court hearing to determine the validity of the facts alleged in a petition or information to establish thereby the judicial authority's jurisdiction to decide the matter which is the subject of the petition or information; (2) ''Contested hearing on an order of temporary custody'' means a hearing on an ex parte order of temporary custody or an order to appear which is held not later than ten days from the day of a preliminary hearing on such orders. Contested hearings shall be held on consecutive days except for compelling circumstances or at the request of the respondent; (3) ''Dispositive hearing'': The judicial authority's jurisdiction to adjudicate the matter which is the subject of the petition or information having been established, a court hearing in which the judicial authority, after considering the social study or predispositional study and the total circumstances of the child or youth, orders whatever action is in the best interests of the child, youth or family and, where applicable, the community. In the discretion of the judicial authority, evidence concerning adjudication and disposition may be presented in a single hearing. (4) ''Preliminary hearing'' means a hearing on an ex parte order of temporary custody or an order to appear or the first hearing on a petition alleging that a child or youth is uncared for, abused, or neglected. A preliminary hearing on any ex parte custody order or order to appear shall be held not later than ten

days from the issuance of the order. (5) ''Plea hearing'' is a hearing at which (i) A parent or guardian who is a named respondent in a neglect, uncared for or dependency petition, upon being advised of his or her rights admits, denies, or pleads nolo contendere to allegations contained in the petition; or (ii) a child or youth who is a named respondent in a delinquency petition or information enters a plea of not guilty, guilty, or nolo contendere upon being advised of the charges against him or her contained in the information or petition, or a hearing at which a child or youth who is a named respondent in a family with service needs **[**or youth in crisis**]** petition admits or denies the allegations contained in the petition upon being advised of the allegations.

(h) ''Indian child'' means an unmarried person under age eighteen who is either a member of a federally recognized Indian tribe or is eligible for membership in a federally recognized Indian tribe and is the biological child of a member of a federally recognized Indian tribe, and is involved in custody proceedings, excluding delinquency proceedings.

(i) ''Parent'' means a biological mother or father or adoptive mother or father except a biological or adoptive mother or father whose parental rights have been terminated; or the father of any child or youth born out of wedlock, provided at the time of the filing of the petition (1) he has been adjudicated the father of such child or youth by a court which possessed the authority to make such adjudication, or (2) he has acknowledged in writing to be the father of such child or youth, or (3) he has contributed regularly to the support of such child, or (4)

his name appears on the birth certificate, or (5) he has filed a claim for paternity as provided under General Statutes § 46b-172a, or (6) he has been named in the petition as the father of the minor child or youth by the mother.

(j) ''Parties'' includes: (1) The child or youth who is the subject of a proceeding and those additional persons as defined herein; (2) ''Legal party'': Any person, including a parent, whose legal relationship to the matter pending before the judicial authority is of such a nature and kind as to mandate the receipt of proper legal notice as a condition precedent to the establishment of the judicial authority's jurisdiction to adjudicate the matter pending before it; and (3) ''Intervening party'': Any person who is permitted to intervene in accordance with Section 35a-4.

(k) ''Permanency plan'' means a plan developed by the commissioner of the department of children and families for the permanent placement of a child or youth in the commissioner's care. Permanency plans shall be reviewed by the judicial authority as prescribed in General Statutes §§ 17a-110 (b), 17a-111b (c), 46b-129 (k), 46b-141, and 46b-149 (j).

(*l*) ''Petition'' means a formal pleading, executed under oath, alleging that the respondent is within the judicial authority's jurisdiction to adjudicate the matter which is the subject of the petition by reason of cited statutory provisions and seeking a disposition. Except for a petition for erasure of record, such petitions invoke a judicial hearing and shall be filed by any one of the parties authorized to do so by statute.

(m) ''Information'' means a formal pleading filed by a prosecutor alleging that a child or youth in a delinquency matter is within the judicial authority's jurisdiction.

(n) ''Probation'' means a legal status created in delinquency cases following conviction whereby a respondent child is permitted to remain in the home or in the physical custody of a relative or other fit person subject to supervision by the court through the court's probation officers and upon such terms as the judicial authority determines, subject to the continuing jurisdiction of the judicial authority.

(o) ''Respondent'' means a person who is alleged to be a delinquent or a child from a family with service needs, **[**or a youth in crisis,**]** or a parent or a guardian of a child or youth who is the subject of a petition alleging that the child is uncared for, abused, neglected, or requesting termination of parental rights.

(p) ''Specific steps'' means those judicially determined steps the parent or guardian and the commissioner of the department of children and families should take in order for the parent or guardian to retain or regain custody of a child or youth.

(q) ''Staff secure facility'' means a residential facility (1) that does not include construction features designed to physically restrict the movements and activities of juvenile residents who are placed therein, (2) that may establish reasonable rules restricting entrance to and egress from the facility, and (3) in which the movements and activities of individual juvenile residents may, for treatment purposes, be restricted or subject to control through the use of intensive staff supervision.

(r) ''Supervision'' includes: (1) ''Nonjudicial supervision'': A legal status without the filing of a petition or a court conviction or adjudication but following the child's admission to a complaint wherein a probation officer exercises supervision over the child with the consent of the child and the parent; (2) ''Protective supervision'': A disposition following adjudication in neglected, abused or uncared for cases created by an order of the judicial authority requesting a supervising agency other than the court to assume the responsibility of furthering the welfare of the family and best interests of the child or youth when the child's or youth's place of abode remains with the parent or any suitable or worthy person, or when the judicial authority vests custody or guardianship in another suitable and worthy person, subject to the continuing jurisdiction of the court; and (3) ''Judicial supervision'': A legal status similar to probation for a child adjudicated to be from a family with service needs or subject to supervision pursuant to an order of suspended proceedings under General Statutes § 46b-133b or § 46b-133e.

(s) ''Take into Custody Order'' means an order by a judicial authority that a child be taken into custody and immediately turned over to a detention superintendent where probable cause has been found that the child has committed a delinquent act, there is no less restrictive alternative available, and the child meets the criteria set forth in Section 31a-13.

COMMENTARY: The definition of ''youth in crisis'' was removed from the General Statutes pursuant to Public Act 09-7 (September

Special Session). The changes to this chapter title comport with the provisions of the General Statutes.

CHAPTER 29

RECEPTION AND PROCESSING OF DELINQUENCY[,] AND CHILD FROM FAMILY WITH SERVICE NEEDS [AND YOUTH IN CRISIS] PETITIONS AND DELINQUENCY INFORMATIONS

COMMENTARY: The definition of "youth in crisis" was removed from the General Statutes pursuant to Public Act 09-7 (September Special Session). The changes to this chapter heading comport with the provisions of the General Statutes.

Sec. 29-1. Contents of Delinquency[,] and Family with Service Needs[, and Youth In Crisis] Petitions or Delinquency Informations

(a) A delinquency petition or information shall set forth in plain, concise and definite language the offense which the petitioner contends the child has committed. The petition or information shall further state the citation of any provision of law which is the basis of the petition or information, together with a statement that the offense occurred on or about a particular date or period of time at a particular location.

(b) A family with service needs **[**or youth in crisis**]** petition shall set forth in plain, concise and definite language the specific misconduct which the petitioner contends the child or youth has committed. The petition shall further state the citation of any provision of law which is the basis of the petition, together with a statement that the misconduct

occurred on or about a particular date or period of time at a particular location.

COMMENTARY: The definition of "youth in crisis" was removed from the General Statutes pursuant to Public Act 09-7 (September Special Session). The changes to this section make the section consistent with the General Statutes.

Sec. 29-1B. Processing of Family with Service Needs [and Youth In Crisis] Petitions

The procedures promulgated in General Statutes **[**§ **]**§ 46b-149 **[**and 46b-150f**]** shall apply. Court process shall be initiated by a petition filed by a probation officer and signed and verified by the juvenile prosecutor.

COMMENTARY: The definition of "youth in crisis" was removed from the General Statutes pursuant to Public Act 09-7 (September Special Session). The changes to this section make the section consistent with the General Statutes.

Sec. 29-2. Service of Petitions

(a) Notice of summons, together with a copy of the verified delinquency**[**,**]** or family with service needs **[**or youth in crisis**]** petition, may be made to the child or youth and parent, guardian or other person having control of the child or youth by service in accordance with any one of the methods set out in General Statutes § 46b-128. Any notice sent by first class mail shall include a provision informing the party that appearance in court as a result of the notice may subject the appearing party to the jurisdiction of the court. If the child or youth

does not appear on the plea date, service shall be made in accordance with General Statutes § 46b-128 or § 46b-149 (d), as appropriate.

(b) Petitions alleging delinquency**[**,**]** or family with service needs **[**or youth in crisis**]** misconduct shall be served or delivered not less than seven days before the date of the hearing which shall be held not more than thirty days from the date of filing of the petition.

COMMENTARY: The definition of ''youth in crisis'' was removed from the General Statutes pursuant to Public Act 09-7 (September Special Session). The changes to this section make the section consistent with the General Statutes.

CHAPTER 30a

DELINQUENCY[,] AND FAMILY WITH SERVICE NEEDS [AND YOUTH IN CRISIS] HEARINGS

COMMENTARY: The definition of ''youth in crisis'' was removed from the General Statutes pursuant to Public Act 09-7 (September Special Session). The changes to this chapter heading comport with the provisions of the General Statutes.

Sec. 30a-1. Initial Plea Hearing

(a) The judicial authority shall begin the hearing by determining whether all necessary parties are present and that the rules governing service or notice for nonappearing parties have been complied with, and shall note these facts for the record. The judicial authority shall then inform the parties of the substance of the petition or information.

(b) In age appropriate language, the judicial authority prior to any plea shall advise the child or youth and parent or guardian of the following rights: (1) That the child or youth is not obligated to say

anything and that anything that is said may be used against the child or youth. (2) That the child or youth is entitled to the services of an attorney and that if the child or youth and the parent or parents, or guardian are unable to afford an attorney for the child or youth, an application for a public defender or an attorney appointed by the chief public defender should be completed and filed with the office of the public defender or the clerk of the court to request an attorney without cost. (3) That the child or youth will not be questioned unless he or she consents, that the child or youth can consult with an attorney before being questioned and may have an attorney present during questioning, and that the child or youth can stop answering questions at any time. (4) That the child or youth has the right to a trial and the rights of confrontation and crossexamination of witnesses.

(c) Notwithstanding any prior statement acknowledging responsibility for the acts alleged, the judicial authority shall inquire of the child or youth whether the child or youth presently admits or denies the allegations of the petition or information.

(d) If the judicial authority determines that a child or youth, or the parent, parents or guardian of a child or youth are unable to afford counsel for the child or youth, the judicial authority shall, in a delinquency proceeding, appoint the office of the public defender to represent the child or youth, or in a family with service needs **[**or youth in crisis**]** proceeding, notify the chief public defender, who shall assign an attorney to represent the child or youth.

(e) If the judicial authority, even in the absence of a request for appointment of counsel, determines that the interests of justice require

the provision of an attorney to represent the child, youth or the child's or youth's parent or parents, guardian or other person having control of the child or youth, in any delinquency**[**,**]** or family with service needs **[**or youth in crisis**]** proceeding, the judicial authority may appoint an attorney to represent any such party and shall notify the chief public defender who shall assign an attorney to represent any such party. Where, under the provisions of this section, the court so appoints counsel for any such party who is found able to pay, in whole or in part, the cost thereof, the judicial authority shall assess as costs on the appropriate form against such parent or parents, guardian or other person having control of the child or youth, including any agency vested with the legal custody of the child or youth, the expense so incurred and paid by the Public Defender Services Commission in providing such counsel, to the extent of their financial ability to do so in accordance with the rates established by the Public Defender Services Commission for compensation of counsel.

(f) If the parent, parents or guardian of the child or youth fails to comply with a court order entered in the best interests of the child or youth and is facing potential imprisonment for contempt of court, such parent or guardian, if unable to afford counsel, shall be entitled to have counsel provided for such parent or guardian of the child or youthin accordance with subsection (e) of this section.

(g) For purposes of determining eligibility for appointment of counsel, the judicial authority shall cause the parent or guardian of a child or youth to complete a written statement under oath or affirmation setting forth the child's or youth's, or parent's, parents' or guardian's or other

person's liabilities and assets, income and sources thereof, and such other information as the office of the public defender or the Public Defender Services Commission shall designate and require on forms adopted by said office of the public defender or Public Defender Services Commission.

COMMENTARY: The definition of "youth in crisis" was removed from the General Statutes pursuant to Public Act 09-7 (September Special Session). The changes to this section make the section consistent with the General Statutes.

Sec. 30a-2. Pretrial Conference

(a) When counsel is requested, or responsibility is denied, the case may be continued for a pretrial conference. At the pretrial, the parties may agree that a substitute information will be filed, or that certain charges will be nolled or dismissed. If the child or youth and parent or guardian subsequently execute a written statement of responsibility at the pretrial conference, or the attorney for the child or youth conveys to the prosecutor an agreement on the adjudicatory grounds, a predispositional study shall be compiled by the probation department and the case shall be assigned for a plea and dispositional hearing.

(b) If a plea agreement has been reached by the parties which contemplates the entry of an admission in a family with service needs **[**or youth in crisis**]** case, or a plea of guilty or nolo contendere in a delinquency case, and the recommendation of a particular disposition, the agreement shall be disclosed in open court at the time the plea is offered. Thereupon the judicial authority may accept or reject any agreement, or may defer the decision on acceptance or rejection of

the agreement until it has had an opportunity to review the predispositional study.

COMMENTARY: The definition of ''youth in crisis'' was removed from the General Statutes pursuant to Public Act 09-7 (September Special Session). The changes to this section make the section consistent with the General Statutes.

Sec. 30a-5. Dispositional Hearing

(a) The dispositional hearing may follow immediately upon a conviction or an adjudication.

(b) The judicial authority may admit into evidence any testimony that is considered relevant to the issue of the disposition, in any form the judicial authority finds of probative value, but no disposition shall be made by the judicial authority until the predispositional study, unless waived, has been submitted. A written predispositional study may be waived by the judicial authority for good cause shown upon the request of the parties, provided that the basis for the waiver and the probation officer's oral summary of any investigation are both placed on the record. The predispositional study shall be presented to the judicial authority and copies thereof shall be provided to all counsel in sufficient time for them to prepare adequately for the dispositional hearing, and, in any event, no less than forty-eight hours prior to the date of the disposition.

(c) The prosecutor and the child or youth and parent or guardian shall have the right to produce witnesses on behalf of any dispositional plan they may wish to offer.

(d) Prior to any disposition, the child or youth shall be allowed a reasonable opportunity to make a personal statement to the judicial authority in mitigation of any disposition.

(e) The judicial authority shall determine an appropriate disposition upon conviction of a child as delinquent in accordance with General Statutes §§ 46b-140 and 46b-141.

(f) The judicial authority shall determine an appropriate disposition upon adjudication of a child from a family with service needs in accordance with General Statutes § 46b-149 (h).

[(g) The judicial authority shall determine an appropriate disposition upon adjudication of a youth as a youth in crisis in accordance with General Statutes § 46b-150f.**]**

[(h)**]**(g) The judicial authority shall determine the appropriate disposition upon a finding that a child adjudicated as a child from a family with service needs has violated a valid court order.

[(i) The judicial authority shall determine the appropriate disposition upon a finding that a youth adjudicated as a youth in crisis has violated a valid court order.**]**

COMMENTARY: The definition of ''youth in crisis'' was removed from the General Statutes pursuant to Public Act 09-7 (September Special Session). The changes to this section make the section consistent with the General Statutes.

CHAPTER 31a

DELINQUENCY[,] AND FAMILY WITH SERVICE NEEDS

[AND YOUTH IN CRISIS] MOTIONS

AND APPLICATIONS

COMMENTARY: The definition of ''youth in crisis'' was removed from the General Statutes pursuant to Public Act 09-7 (September Special Session). The changes to this chapter heading comport with the provisions of the General Statutes.

Sec. 31a-14. Physical and Mental Examinations

(a) No physical and/or mental examination or examinations by any physician, psychologist, psychiatrist or social worker shall be ordered by the judicial authority of any child denying delinquent behavior or status as a child or youth from a family with service needs [or youth in crisis] prior to the adjudication, except (1) with the agreement of the child's or youth's parent or guardian and attorney, (2) when the child or youth has executed a written statement of responsibility, (3) when the judicial authority finds that there is a question of the child's or youth's competence to understand the nature of the proceedings or to participate in the defense, or a question of the child or youth having been mentally capable of unlawful intent at the time of the commission of the alleged act, or (4) where the child or youth has been detained and as an incident of detention is administered a physical examination to establish the existence of any contagious or infectious condition.

(b) Any information concerning a child or youth that is obtained during any mental health screening or assessment of such child or youth shall be used solely for planning and treatment purposes and shall otherwise be confidential and retained in the files of the entity performing such screening or assessment. Such information may be further disclosed only for the purposes of any court-ordered evaluation

or treatment of the child or youth, or provision of services to the child or youth, or pursuant to General Statutes §§ 17a-101 to 17a-101e, inclusive, 17b-450, 17b-451 or 51-36a. Such information shall not be subject to subpoena or other court process for use in any other proceeding or for any other purpose.

(c) Upon a showing that the mental health of a child or youth is at issue, either prior to adjudication for the reasons set forth in subsection (a) herein or subsequent thereto as a determinate of disposition, the judicial authority may order a child's or youth's placement for a period not to exceed thirty days in a hospital or other institution empowered by law to treat mentally ill children for study and a report on the child's or youth's mental condition.

COMMENTARY: The definition of "youth in crisis" was removed from the General Statutes pursuant to Public Act 09-7 (September Special Session). The changes to this section make the section consistent with the General Statutes.

Sec. 31a-16. Discovery

(a) The child or youth or the juvenile prosecutor shall be permitted pretrial discovery in accordance with subsections (b), (c) and (d) of this section by interrogatory, production, inspection or deposition of a person in delinquency**[**,**]** or family with service needs **[**or youth in crisis**]** matters if the information or material sought is not otherwise obtainable and upon a finding that proceedings will not be unduly delayed.

(b) Motions or requests for discovery shall be filed with the court in accordance with Section 31a-1. The clerk shall calendar any such motion or request for a hearing. Objections to such motions or requests

may be filed with the court and served in accordance with Sections 10-12 through 10-17 not later than ten days of the filing of the motion or request unless the judicial authority, for good cause shown, allows a later filing. Upon its own motion or upon the request or motion of a party, the judicial authority may, after a hearing, order discovery. The judicial authority shall fix the times for filing and for responding to discovery motions and requests and, when appropriate, shall fix the hour, place, manner, terms and conditions of responses to the motions and requests, provided that the party seeking discovery shall be allowed a reasonable opportunity to obtain information needed for the preparation of the case.

(c) Motions or requests for discovery should not be filed unless the moving party has attempted unsuccessfully to obtain an agreement to disclose from the party or person from whom information is being sought.

(d) The provisions of Sections 40-2 through 40-6, inclusive, 40-7 (b), 40-8, through 40-16, inclusive, and 40-26 through 40-58, inclusive, of the rules of procedure in criminal matters shall be applied by the judicial authority in determining whether to grant, limit or set conditions on the requested discovery, issue any protective orders, or order appropriate sanctions for any clear misuse of discovery or arbitrary delay or refusal to comply with a discovery request.

COMMENTARY: The definition of ''youth in crisis'' was removed from the General Statutes pursuant to Public Act 09-7 (September Special Session). The changes to this section make the section consistent with the General Statutes.

Sec. 35a-1. Adjudication upon Acceptance of Admission or Written Plea of Nolo Contendere

(a) Notwithstanding any prior statements acknowledging responsibility, the judicial authority shall inquire whether the allegations of the petition are presently admitted or denied. This inquiry shall be made of the parent(s) or guardian in neglect, abuse or uncared for matters, and of the parents in termination matters.

(b) An admission to allegations or a written plea of nolo contendere signed by the respondent may be accepted by the judicial authority. Before accepting an admission or plea of nolo contendere, the judicial authority shall determine whether the right to trial has been waived, and that the parties understand the content and consequences of their admission or plea. If the allegations are admitted or the plea accepted, the judicial authority shall make its adjudicatory finding as to the validity of the facts alleged in the petition and may proceed to a dispositional hearing. Where appropriate, the judicial authority may permit a noncustodial parent or guardian to stand silent as to the entry of an adjudication. The judicial authority shall determine whether a noncustodial parent or guardian standing silent understands the consequences of standing silent.

COMMENTARY: This revision is consistent with the holding in *In re Joseph W.,* 301 Conn. 245, 261, 21 A.3d 723 (2011). The court held that: ‘‘noncustodial parents are entitled to enter a plea in neglect proceedings under § 46b-129 (c) and Practice Book (2007) § 35a-

1 (b).'' Id. A noncustodial parent should, therefore, understand that they have such a right and the consequences of standing silent.

PROPOSED AMENDMENTS TO PRACTICE BOOK FORMS

Form 201

Plaintiff's Interrogatories

No. CV-	: SUPERIOR COURT
(Plaintiff)	: JUDICIAL DISTRICT OF
VS.	: AT
(Defendant)	: (Date)

The undersigned, on behalf of the Plaintiff, hereby propounds the following interrogatories to be answered by the Defendant, _____, under oath, within thirty (30) days of the filing hereof in compliance with Practice Book Section 13-2.

Definition: ''You'' shall mean the Defendant to whom these interrogatories are directed except that if that Defendant has been sued as the representative of the estate of a decedent, ward, or incapable person, ''you'' shall also refer to the Defendant's decedent, ward or incapable person unless the context of an interrogatory clearly indicates otherwise.

In answering these interrogatories, the Defendant(s) is (are) required to provide all information within their knowledge, possession or power. If an interrogatory has subparts, answer each subpart separately and in full and do not limit the answer to the interrogatory as a whole. If any interrogatories cannot be answered in full, answer to the extent possible.

(1) State the following:

(a) your full name and any other name(s) by which you have been known;

(b) your date of birth;

(c) your motor vehicle operator's license number;

(d) your home address;

(e) your business address;

(f) if you were not the owner of the subject vehicle, the name and address of the owner or lessor of the subject vehicle on the date of the alleged occurrence.

(2) Have you made any statements, as defined in Practice Book Section 13-1, to any person regarding any of the incidents alleged in the Complaint?

COMMENT:

This interrogatory is intended to include party statements made to a representative of an insurance company prior to involvement of defense counsel.

(3) If the answer to Interrogatory #2 is affirmative, state:

(a) the name and address of the person or persons to whom such statements were made;

(b) the date on which such statements were made;

(c) the form of the statement (i.e., whether written, made by recording device or recorded by a stenographer, etc.);

(d) the name and address of each person having custody, or a copy or copies of each statement.

(4) State the names and addresses of all persons known to you who were present at the time of the incident alleged in the Complaint or who observed or witnessed all or part of the incident.

(5) As to each individual named in response to Interrogatory #4, state whether to your knowledge, or the knowledge of your attorney, such individual has given any statement or statements as defined in Practice Book Section 13-1 concerning the subject matter of the

Complaint in this lawsuit. If your answer to this interrogatory is affirmative, state also:

(a) the date on which the statement or statements were taken;

(b) the names and addresses of the person or persons who took such statement or statements;

(c) the names and addresses of any person or persons present when such statement or statements were taken;

(d) whether such statement or statements were written, made by recording device or taken by court reporter or stenographer;

(e) the names and addresses of any person or persons having custody or a copy or copies or such statement or statements.

(6) Are you aware of any photographs depicting the accident scene, any vehicle involved in the incident alleged in the Complaint, or any condition or injury alleged to have been caused by the incident alleged in the Complaint? If so, for each set of photographs taken of each such subject by each photographer, please state:

(a) the name and address of the photographer, other than an expert who will not testify at trial;

(b) the dates on which such photographs were taken;

(c) the subject (e.g., ''Plaintiff's vehicle,'' ''scene,'' etc.);

(d) the number of photographs.

(7) If, at the time of the incident alleged in the Complaint, you were covered by an insurance policy under which an insurer may be liable to satisfy part or all of a judgment or reimburse you for payments to satisfy part or all of a judgment, state the following:

(a) the name(s) and address(es) of the insured(s);

(b) the amount of coverage under each insurance policy;

(c) the name(s) and address(es) of said insurer(s).

(8) If at the time of the incident which is the subject of this lawsuit you were protected against the type of risk which is the subject of this lawsuit by excess umbrella insurance, or any other insurance, state:

(a) the name(s) and address(es) of the named insured;

(b) the amount of coverage effective at this time;

(c) the name(s) and address(es) of said insurer(s).

(9) State whether any insurer, as described in Interrogatories #7 and #8 above, has disclaimed/reserved its duty to indemnify any insured or any other person protected by said policy.

(10) If applicable, describe in detail the damage to your vehicle.

(11) If applicable, please state the name and address of an appraiser or firm which appraised or repaired the damage to the vehicle owned or operated by you.

(12) If any of the Defendants are deceased, please state the date and place of death, whether an estate has been created, and the name and address of the legal representative thereof.

(13) If any of the Defendants is a business entity that has changed its name or status as a business entity (whether by dissolution, merger, acquisition, name change, or in any other manner) since the date of the incident alleged in the Complaint, please identify such Defendant, state the date of the change, and describe the change.

(14) If you were the operator of any motor vehicle involved in the incident that is the subject of this action, please state whether, at the time of the incident, you were operating that vehicle in the course of

your employment with any person or legal entity not named as a party to this lawsuit, and, if so, state the full name and address of that person or entity.

(15) If you were the operator of any motor vehicle involved in the incident that is the subject of this action, please state whether you consumed or used any alcoholic beverages, drugs or medications within the eight (8) hours next preceding the time of the incident alleged in the Complaint and, if so, indicate what you consumed or used, how much you consumed, and when.

(16) Please state whether, within eight (8) hours after the incident alleged in the Complaint, any testing was performed to determine the presence of alcohol, drugs or other medications in your blood, and, if so, state:

(a) the name and address of the hospital, person or entity performing such test or screen;

(b) the date and time;

(c) the results.

(17) Please identify surveillance material discoverable under Practice Book Section 13-3 (c), by stating the name and address of any person who obtained or prepared any and all recordings by film, photograph, videotape, audiotape, or any other digital or electronic means, of any party concerning this lawsuit or its subject matter, including any transcript thereof which are in your possession or control or in the possession or control of your attorney, and state the date on which each such recordings were obtained and the person or persons of whom each such recording was made.

PLAINTIFF,

BY_____

I, _____, hereby certify that I have reviewed the above interrogatories and responses thereto and that they are true and accurate to the best of my knowledge and belief.

_____

(Defendant)

Subscribed and sworn to before me this _____ day of _____, 20____.

_____

Notary Public/Commissioner of the Superior Court

CERTIFICATION

I certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on (*date*) _____ to all attorneys and self-represented parties of record and to all parties who have not appeared in this matter and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

Name and address of each party and attorney that copy was or will immediately be mailed or delivered to*

*If necessary, attach additional sheet or sheets with the name and address which the copy was or will immediately be mailed or delivered to.

_____

Signed (*Signature of filer*) Print or type name of person signing

_____

Date Signed

_____

Mailing address (*Number, street, town, state and zip code)* or

_____

Email address, if applicable

_____

Telephone number

COMMENTARY: The changes to this form add the clarifying language concerning answering in compliance with Section 13-2 and comply with the changes made to Section 10-14 to clarify the process of certifying proof of service.

Form 202

Defendant's Interrogatories

No. CV-	: SUPERIOR COURT
(Plaintiff)	: JUDICIAL DISTRICT OF
VS.	: AT
(Defendant)	: (Date)

The undersigned, on behalf of the Defendant, hereby propounds the following interrogatories to be answered by the Plaintiff, _____, under oath, within thirty (30) days of the filing hereof in compliance with Practice Book Section 13-2.

Definition: ''You'' shall mean the Plaintiff to whom these interrogatories are directed except that if suit has been instituted by the representative of the estate of a decedent, ward, or incapable person, ''you'' shall also refer to the Plaintiff's decedent, ward or incapable person unless the context of an interrogatory clearly indicates otherwise.

In answering these interrogatories, the Plaintiff(s) is (are) required to provide all information within their knowledge, possession or power. If an interrogatory has subparts, answer each subpart separately and in full and do not limit the answer to the interrogatory as a whole. If any interrogatories cannot be answered in full, answer to the extent possible.

(1) State the following:

(a) your full name and any other name(s) by which you have been known;

(b) your date of birth;

(c) your motor vehicle operator's license number;

(d) your home address;

(e) your business address;

(f) if you were not the owner of the subject vehicle, the name and address of the owner or lessor of the subject vehicle on the date of the alleged occurrence.

(2) Identify and list each injury you claim to have sustained as a result of the incidents alleged in the Complaint.

(3) When, where and from whom did you first receive treatment for said injuries?

(4) If you were treated at a hospital for injuries sustained in the alleged incident, state the name and location of each hospital and the dates of such treatment and confinement therein.

(5) State the name and address of each physician, therapist or other source of treatment for the conditions or injuries you sustained as a result of the incident alleged in your Complaint.

(6) When and from whom did you last receive any medical attention for injuries alleged to have been sustained as a result of the incident alleged in your Complaint?

(7) On what date were you fully recovered from the injuries or conditions alleged in your Complaint?

(8) If you claim you are not fully recovered, state precisely from what injuries or conditions you are presently suffering?

(9) Are you presently under the care of any doctor or other health care provider for the treatment of injuries alleged to have been sustained as a result of the incident alleged in your Complaint?

(10) If the answer to Interrogatory #9 is in the affirmative, state the name and address of each physician or other health care provider who is treating you.

(11) Do you claim any present disability resulting from injuries or conditions allegedly sustained as a result of the incident alleged in your Complaint?

(12) If so, state the nature of the disability claimed.

(13) Do you claim any permanent disability resulting from said incident?

(14) If the answer to Interrogatory #13 is in the affirmative, please answer the following:

(a) list the parts of your body which are disabled;

(b) list the motions, activities or use of your body which you have lost or which you are unable to perform;

(c) state the percentage of loss of use claimed as to each part of your body;

(d) state the name and address of the person who made the prognosis for permanent disability and the percentage of loss of use;

(e) list the date for each such prognosis.

(15) If you were or are confined to your home or your bed as a result of injuries or conditions sustained as a result of the incident alleged in your Complaint, state the dates you were so confined.

(16) List each medical report received by you or your attorney relating to your alleged injuries or conditions by stating the name and address of the treating doctor or other health care provider, and of

any doctor or health care person you anticipate calling as a trial witness, who provided each such report and the date thereof.

(17) List each item of expense which you claim to have incurred as a result of the incident alleged in your Complaint, the amount thereof and state the name and address of the person or organization to whom each item has been paid or is payable.

(18) For each item of expense identified in response to Interrogatory #17, if any such expense, or portion thereof, has been paid or reimbursed or is reimbursable by an insurer, state, as to each such item of expense, the name of the insurer that made such payment or reimbursement or that is responsible for such reimbursement.

(19) If, during the ten year period prior to the date of the incident alleged in the Complaint, you were under a doctor's care for any conditions which were in any way similar or related to those identified and listed in your response to Interrogatory #2, state the nature of said conditions, the dates on which treatment was received, and the name of the doctor or health care provider.

(20) If, during the ten year period prior to the date of the incident alleged in your Complaint, you were involved in any incident in which you received personal injuries similar or related to those identified and listed in your response to Interrogatory #2, please answer the following with respect to each such earlier incident:

(a) on what date and in what manner did you sustain such injuries?

(b) did you make a claim against anyone as a result of said accident?

(c) if so, provide the name and address of the person or persons against whom a claim was made;

(d) if suit was brought, state the name and location of the Court, the return date of the suit, and the docket number;

(e) state the nature of the injuries received in said accident;

(f) state the name and address of each physician who treated you for said injuries;

(g) state the dates on which you were so treated;

(h) state the nature of the treatment received on each such date;

(i) if you are presently or permanently disabled as a result of said injuries, please state the nature of such disability, the name and address of each physician who diagnosed said disability and the date of each such diagnosis.

(21) If you were involved in any incident in which you received personal injuries since the date of the incident alleged in the Complaint, please answer the following:

(a) on what date and in what manner did you sustain said injuries?

(b) did you make a claim against anyone as a result of said accident?

(c) if so, provide the name and address of the person or persons against whom a claim was made;

(d) if suit was brought, state the name and location of the Court, the return date of the suit, and the docket number;

(e) state the nature of the injuries received in said accident;

(f) state the name and address of each physician who treated you for said injuries;

(g) state the dates on which you were so treated;

(h) state the nature of the treatment received on each such date;

(i) if you are presently or permanently disabled as a result of said injuries, please state the nature of such disability, the name and address of each physician who diagnosed said disability and the date of each such diagnosis.

(22) Please state the name and address of any medical service provider who has rendered an opinion in writing or through testimony that you have sustained a permanent disability to any body part other than those listed in response to Interrogatories #13, #14, #20 or #21, and:

(a) list each such part of your body that has been assessed a permanent disability;

(b) state the percentage of loss of use assessed as to each part of your body;

(c) state the date on which each such assessment was made.

(23) If you claim that as a result of the incident alleged in your Complaint you were prevented from following your usual occupation, or otherwise lost time from work, please provide the following information:

(a) the name and address of your employer on the date of the incident alleged in the Complaint;

(b) the nature of your occupation and a precise description of your job responsibilities with said employer on the date of the incident alleged in the Complaint;

(c) your average, weekly earnings, salary, or income received from said employment for the year preceding the date of the incident alleged in the Complaint;

(d) the date following the date of the incident alleged in the Complaint on which you resumed the duties of said employment;

(e) what loss of income do you claim as a result of the incident alleged in your Complaint and how is said loss computed?

(f) the dates on which you were unable to perform the duties of your occupation and lost time from work as a result of injuries or conditions claimed to have been sustained as a result of the incident alleged in your Complaint;

(g) the names and addresses of each employer for whom you worked for three years prior to the date of the incident alleged in your Complaint.

(24) Do you claim an impairment of earning capacity?

(25) List any other expenses or loss and the amount thereof not already set forth and which you claim to have incurred as a result of the incident alleged in your Complaint.

(26) If you have signed a covenant not to sue, a release or discharge of any claim you had, have or may have against any person, corporation or other entity as a result of the incident alleged in your Complaint, please state in whose favor it was given, the date thereof, and the consideration paid to you for giving it.

(27) If you or anyone on your behalf agreed or made an agreement with any person, corporation or other entity to limit in any way the liability of such person, corporation or other entity as a result of any claim you have or may have as a result of the incident alleged in your Complaint, please state in whose favor it was given, the date thereof, and the consideration paid to you for giving it.

(28) If since the date of the incident alleged in your Complaint, you have made any claims for workers' compensation benefits, state the nature of such claims and the dates on which they were made.

(29) Have you made any statements, as defined in Practice Book Section 13-1, to any person regarding any of the events or happenings alleged in your Complaint?

COMMENT:

This interrogatory is intended to include party statements made to a representative of an insurance company prior to involvement of defense counsel.

(30) State the names and addresses of all persons known to you who were present at the time of the incident alleged in your Complaint or who observed or witnessed all or part of the accident.

(31) As to each individual named in response to Interrogatory #30, state whether to your knowledge, or the knowledge of your attorney, such individual has given any statement or statements as defined in Practice Book Section 13-1 concerning the subject matter of your Complaint or alleged injuries. If your answer to this interrogatory is affirmative, state also:

(a) the date on which such statement or statements were taken;

(b) the names and addresses of the person or persons who took such statement or statements;

(c) the names and addresses of any person or persons present when such statement or statements were taken;

(d) whether such statement or statements were written, made by recording device or taken by court reporter or stenographer;

(e) the names and addresses of any person or persons having custody or a copy or copies of such statement or statements.

(32) Are you aware of any photographs depicting the accident scene, any vehicle involved in the incident alleged in the Complaint, or any condition or injury alleged to have been caused by the incident alleged in the Complaint? If so, for each set of photographs taken of each such subject by each photographer, please state:

(a) the name and address of the photographer, other than an expert who will not testify at trial;

(b) the dates on which such photographs were taken;

(c) the subject (e.g., ''Plaintiff's vehicle,'' ''scene,'' etc.);

(d) the number of photographs.

(33) If you were the operator of any motor vehicle involved in the incident that is the subject of this action, please state whether you consumed or used any alcoholic beverages, drugs or medications within the eight (8) hours next preceding the time of the incident alleged in the Complaint and, if so, indicate what you consumed or used, how much you consumed, and when.

(34) Please state whether, within eight (8) hours after the incident alleged in the Complaint, any testing was performed to determine the presence of alcohol, drugs or other medications in your blood, and, if so, state:

(a) the name and address of the hospital, person or entity performing such test or screen;

(b) the date and time;

(c) the results.

(35) Please identify surveillance material discoverable under Practice Book Section 13-3 (c), by stating the name and address of any

person who obtained or prepared any and all recordings, by film, photograph, videotape, audiotape or any other digital or electronic means, of any party concerning this lawsuit or its subject matter, including any transcript thereof which are in your possession or control or in the possession or control of your attorney, and state the date on which each such recordings were obtained and the person or persons of whom each such recording was made.

COMMENT:

The following two interrogatories are intended to identify situations in which a Plaintiff has applied for and received workers' compensation benefits. If compensation benefits were paid, then the supplemental interrogatories and requests for production may be served on the Plaintiff without leave of the court if the compensation carrier does not intervene in the action.

(36) Did you make a claim for workers' compensation benefits as a result of the incident/occurrence alleged in the Complaint?

(37) Did you receive workers' compensation benefits as a result of the incident/occurrence alleged in the Complaint?

DEFENDANT,

BY_____

I, _____, hereby certify that I have reviewed the above interrogatories and responses thereto and that they are true and accurate to the best of my knowledge and belief.

_____

(Plaintiff)

Subscribed and sworn to before me this _____ day of _____, 20____.

_____

Notary Public/
Commissioner of the Superior Court

CERTIFICATION

I certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on (*date*) _____ to all attorneys and self-represented parties of record and to all parties who have not appeared in this matter and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

Name and address of each party and attorney that copy was or will immediately be mailed or delivered to*

*If necessary, attach additional sheet or sheets with the name and address which the copy was or will immediately be mailed or delivered to.

_____

Signed (*Signature of filer*) Print or type name of person signing

_____

Date Signed

_____

Mailing address (*Number, street, town, state and zip code)* or

_____

Email address, if applicable

_____

Telephone number

COMMENTARY: The changes to this form comply with the changes made to Section 10-14 to clarify the process of certifying proof of service.

Form 203

Plaintiff's Interrogatories

Premises Liability Cases

No. CV-	: SUPERIOR COURT
(Plaintiff)	: JUDICIAL DISTRICT OF
VS.	: AT
(Defendant)	: (Date)

The undersigned, on behalf of the Plaintiff, hereby propounds the following interrogatories to be answered by the Defendant, _____, under oath, within thirty (30) days of the filing hereof in compliance with Practice Book Section 13-2.

In answering these interrogatories, the Defendant(s) is (are) required to provide all information within their knowledge, possession or power. If an interrogatory has subparts, answer each subpart separately and in full and do not limit the answer to the interrogatory as a whole. If any interrogatories cannot be answered in full, answer to the extent possible.

(1) Identify the person(s) who, at the time of the Plaintiff's alleged injury, owned the premises where the Plaintiff claims to have been injured.

(a) If the owner is a natural person, please state:

(i) your name and any other name by which you have been known;

(ii) your date of birth;

(iii) your home address;

(iv) your business address.

(b) If the owner is not a natural person, please state:

(i) your name and any other name by which you have been known;

(ii) your business address;

(iii) the nature of your business entity (corporation, partnership, etc.);

(iv) whether you are registered to do business in Connecticut;

(v) the name of the manager of the property, if applicable.

(2) Identify the person(s) who, at the time of the Plaintiff's alleged injury, had a possessory interest (e.g., tenants) in the premises where the Plaintiff claims to have been injured.

(3) Identify the person(s) responsible for the maintenance and inspection of the premises at the time and place where the Plaintiff claims to have been injured.

(4) State whether you had in effect at the time of the Plaintiff's injuries any written policies or procedures that relate to the kind of conduct or condition the Plaintiff alleges caused the injury.

(5) State whether it is your business practice to prepare, or to obtain from your employees, a written report of the circumstances surrounding injuries sustained by persons on the subject premises.

(6) State whether any written report of the incident described in the Complaint was prepared by you or your employees in the regular course of business.

(7) State whether any warnings or caution signs or barriers were erected at or near the scene of the incident at the time the Plaintiff claims to have been injured.

(8) If the answer to the previous interrogatory is in the affirmative, please state:

(a) the name, address and employer of the person who erected the warning or caution signs or barriers;

(b) the name, address and employer who instructed the person to erect the warning or caution signs or barriers;

(c) the time and date a sign or barrier was erected;

(d) the size of the sign or barrier and wording that appeared thereon.

(9) State whether you received, at any time within twenty-four (24) months before the incident described by the Plaintiff, complaints from anyone about the defect or condition that the Plaintiff claims caused the Plaintiff's injury.

(10) If the answer to the previous interrogatory is in the affirmative, please state:

(a) the name and address of the person who made the complaint;

(b) the name, address and person to whom said complaint was made;

(c) whether the complaint was in writing;

(d) the nature of the complaint.

(11) Please identify surveillance material discoverable under Practice Book Section 13-3 (c), by stating the name and address of any person who obtained or prepared any and all recordings, by film, photograph, videotape, audiotape or any other digital or electronic means, of any party concerning this lawsuit or its subject matter, including any transcript thereof which are in your possession or control or in the possession or control of your attorney, and state the date on which each such recordings were obtained and the person or persons of whom each such recording was made.

(12)–(23) (Interrogatories #1 (a) through (e), #2 through #9, #12, #13 and #16 of Form 201 may be used to complete this standard set of interrogatories.)

PLAINTIFF,

BY _____

CERTIFICATION

I certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on (*date*) _____ to all attorneys and self-represented parties of record and to all parties who have not appeared in this matter and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

Name and address of each party and attorney that copy was or will immediately be mailed or delivered to*

*If necessary, attach additional sheet or sheets with the name and address which the copy was or will immediately be mailed or delivered to.

_____

Signed (*Signature of filer*) Print or type name of person signing

_____

Date Signed

_____

Mailing address (*Number, street, town, state and zip code)* or

_____

Email address, if applicable

_____

Telephone number

COMMENTARY: The changes to this form comply with the changes made to Section 10-14 to clarify the process of certifying proof of service.

Form 204

Plaintiff's Requests for Production

No. CV-	: SUPERIOR COURT
(Plaintiff)	: JUDICIAL DISTRICT OF
VS.	: AT
(Defendant)	: (Date)

The Plaintiff(s) hereby request(s) that the Defendant provide counsel for the Plaintiff(s) with copies of the documents described in the following requests for production, or afford counsel for said Plaintiff(s) the opportunity or, if necessary, sufficient written authorization, to inspect, copy, photograph or otherwise reproduce said documents. The production of such documents, copies or written authorization shall take place at the offices of _____ on _____ (day), _____ (date) at _____ (time).

In answering these production requests, the Plaintiff(s) are required to provide all information within their possession, custody or control. If any production request cannot be answered in full, answer to the extent possible.

Definition: ''You'' shall mean the Defendant to whom these interrogatories are directed except that if that Defendant has been sued as the representative of the estate of a decedent, ward, or incapable person, ''you'' shall also refer to the Defendant's decedent, ward or incapable person unless the context of an interrogatory clearly indicates otherwise.

(1) A copy of the appraisal or bill for repairs as identified in response to Interrogatory #11.

(2) A copy of declaration page(s) of each insurance policy identified in response to Interrogatory #7 and/or #8.

(3) If the answer to Interrogatory #9 is in the affirmative, a copy of the complete policy contents of each insurance policy identified in response to Interrogatory #7 and/or #8.

(4) A copy of any photographs identified in response to Interrogatory #6.

(5) A copy of any nonprivileged statement, as defined in Practice Book Section 13-1, of any party in this lawsuit concerning this action or its subject matter.

(6) A copy of all lease agreements pertaining to any motor vehicle involved in the incident which is the subject of this action, which was owned or operated by you or your employee, and all documents referenced or incorporated therein.

(7) A copy of all records of blood alcohol testing or drug screens referred to in answer to Interrogatory #16, or a signed authorization, sufficient to comply with the provisions of the Health Insurance Portability and Accountability Act (HIPAA) or those of the Public Health Service Act, whichever is applicable, to obtain the same for each hospital, person or entity that performed such test or screen. Information obtained pursuant to the provisions of HIPAA or the Public Health Service Act shall not be used or disclosed by the parties for any purpose other than the litigation or proceeding for which such information is requested.

(8) A copy of each and every recording of surveillance material discoverable under Practice Book Section 13-3 (c), by film, photograph, videotape, audiotape or any other digital or electronic means, of any

party to this lawsuit concerning this lawsuit or the subject matter thereof, including any transcript of such recording.

PLAINTIFF,

BY _____

CERTIFICATION

I certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on (*date*) _____ to all attorneys and self-represented parties of record and to all parties who have not appeared in this matter and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

Name and address of each party and attorney that copy was or will immediately be mailed or delivered to*

*If necessary, attach additional sheet or sheets with the name and address which the copy was or will immediately be mailed or delivered to.

_____

Signed (*Signature of filer*) Print or type name of person signing

_____

Date Signed

_____

Mailing address (*Number, street, town, state and zip code)* or

_____

Email address, if applicable

_____

Telephone number

COMMENTARY: The changes to this form comply with the changes made to Section 10-14 to clarify the process of certifying proof of service.

Form 205

Defendant's Requests for Production

No. CV-	: SUPERIOR COURT
(Plaintiff)	: JUDICIAL DISTRICT OF
VS.	: AT
(Defendant)	: (Date)

The Defendant(s) hereby request(s) that the Plaintiff provide counsel for the Defendant(s) with copies of the documents described in the following requests for production, or afford counsel for said Defendant(s) the opportunity or, where requested, sufficient written authorization, to inspect, copy, photograph or otherwise reproduce said documents. The production of such documents, copies or written authorizations shall take place at the offices of _____ not later than thirty (30) days after the service of the Requests for Production.

In answering these production requests, the Plaintiff(s) are required to provide all information within their possession, custody or control. If any production request cannot be answered in full, answer to the extent possible.

(1) All hospital records relating to treatment received as a result of the alleged incident, and to injuries, diseases or defects to which reference is made in the answers to Interrogatories #19, #20, #21 and #22, or written authorization, sufficient to comply with the provisions of the Health Insurance Portability and Accountability Act (HIPAA), to inspect and make copies of said hospital records. Information obtained

pursuant to the provisions of HIPAA shall not be used or disclosed by the parties for any purpose other than the litigation or proceeding for which such information is requested.

(2) All reports and records of all doctors and all other care providers relating to treatment allegedly received by the Plaintiff(s) as a result of the alleged incident, and to the injuries, diseases or defects to which reference is made in the answers to Interrogatories #19, #20, #21 and #22 (exclusive of any records prepared or maintained by a licensed psychiatrist or psychologist) or written authorization, sufficient to comply with provisions of the Health Insurance Portability and Accountability Act, to inspect and make copies of said reports. Information obtained pursuant to the provisions of HIPAA shall not be used or disclosed by the parties for any purpose other than the litigation or proceeding for which such information is requested.

(3) If a claim for lost wages or lost earning capacity is being made, copies of, or sufficient written authorization to inspect and make copies of, the wage and employment records of all employers of the Plaintiff(s) for three (3) years prior to the date of the incident and for all years subsequent to the date of the incident to and including the date hereof.

(4) If a claim of impaired earning capacity or lost wages is being alleged, provide copies of, or sufficient written authorization to obtain copies of, that part of all income tax returns relating to lost income filed by the Plaintiff(s) for a period of three (3) years prior to the date of the incident and for all years subsequent to the date of the incident through the time of trial.

(5) All property damage bills that are claimed to have been incurred as a result of this incident.

(6) All medical bills that are claimed to have been incurred as a result of this incident or written authorization, sufficient to comply with the provisions of the Health Insurance Portability and Accountability Act, to inspect and make copies of said medical bills. Information obtained pursuant to the provisions of HIPAA shall not be used or disclosed by the parties for any purpose other than the litigation or proceeding for which such information is requested.

(7) All bills for each item of expense that is claimed to have been incurred in the answer to Interrogatory #18, and not already provided in response ¶5 and ¶6 above.

(8) Copies of all documentation of claims of right to reimbursement provided to the Plaintiff by third party payors, and copies of, or written authorization, sufficient to comply with provisions of the Health Insurance Portability and Accountability Act, to obtain any and all documentation of payments made by a third party for medical services received or premiums paid to obtain such payment. Information obtained pursuant to the provisions of HIPAA shall not be used or disclosed by the parties for any purpose other than the litigation or proceeding for which such information is requested.

(9) All documents identified or referred to in the answers to Interrogatory #26.

(10) A copy of any nonprivileged statement, as defined in Practice Book Section 13-1, of any party in this lawsuit concerning this action or its subject matter.

(11) Any and all photographs identified in response to Interrogatory #32.

(12) A copy of all records of blood alcohol testing or drug screens referred to in answer to Interrogatory #35, or a signed authorization, sufficient to comply with the provisions of the Health Insurance Portability and Accountability Act or those of the Public Health Service Act, whichever is applicable, to obtain the same. Information obtained pursuant to the provisions of HIPAA or the Public Health Service Act shall not be used or disclosed by the parties for any purpose other than the litigation or proceeding for which such information is requested.

(13) A copy of each and every recording of surveillance material discoverable under Practice Book Section 13-3 (c), by film, photograph, videotape, audiotape or any other digital or electronic means, of any party to this lawsuit concerning this lawsuit or the subject matter thereof, including any transcript of such recording.

DEFENDANT,

BY _____

CERTIFICATION

I certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on (*date*) _____ to all attorneys and self-represented parties of record and to all parties who have not appeared in this matter and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

Name and address of each party and attorney that copy was or will immediately be mailed or delivered to*

*If necessary, attach additional sheet or sheets with the name and address which the copy was or will immediately be mailed or delivered to.

_____

Signed (*Signature of filer*) Print or type name of person signing

_____

Date Signed

_____

Mailing address (*Number, street, town, state and zip code)* or

_____

Email address, if applicable

_____

Telephone number

COMMENTARY: The changes to this form comply with the changes made to Section 10-14 to clarify the process of certifying proof of service.

Form 206

Plaintiff's Requests for Production Premises Liability

No. CV-	: SUPERIOR COURT
(Plaintiff)	: JUDICIAL DISTRICT OF
VS.	: AT
(Defendant)	: (Date)

The Plaintiff hereby requests that the Defendant provide counsel for the Plaintiff with copies of the documents described in the following requests for production, or afford counsel for said Plaintiff the opportunity or, if necessary, sufficient written authorization, to inspect, copy, photograph or otherwise reproduce said documents. The production of such documents, copies or written authorization shall take place at the offices of _____ on _____ (day), _____ (date) at _____ (time).

In answering these production requests, the Defendant(s) are required to provide all information within their possession, custody or control. If any production request cannot be answered in full, answer to the extent possible.

(1) A copy of the policies or procedures identified in response to Interrogatory #4.

(2) A copy of the report identified in response to Interrogatory #6.

(3) A copy of any written complaints identified in Interrogatory #10.

(4) A copy of declaration page(s) evidencing the insurance policy or policies identified in response to Interrogatories numbered _____ and _____.

(5) A copy of any nonprivileged statement, as defined in Practice Book Section 13-1, of any party in this lawsuit concerning this action or its subject matter.

(6) A copy of each and every recording of surveillance material discoverable under Practice Book Section 13-3 (c), by film, photograph, videotape, audiotape or any other digital or electronic means, of any party to this lawsuit concerning this lawsuit or the subject matter thereof, including any transcript of such recording.

PLAINTIFF,

BY _____

CERTIFICATION

I certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on (*date*) _____ to all attorneys and self-represented parties of record and to all parties who have not appeared in this matter and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

Name and address of each party and attorney that copy was or will immediately be mailed or delivered to*

*If necessary, attach additional sheet or sheets with the name and address which the copy was or will immediately be mailed or delivered to.

Signed (*Signature of filer*) Print or type name of person signing

Date Signed

Mailing address (*Number, street, town, state and zip code)* or

Email address, if applicable

Telephone number

COMMENTARY: The changes to this form comply with the changes made to Section 10-14 to clarify the process of certifying proof of service.

Form 207

Interrogatories—Actions to Establish, Enforce or Modify Child Support Orders

No.	: SUPERIOR COURT
(Plaintiff)	: FAMILY SUPPORT
	: MAGISTRATE DIVISION
VS.	: JUDICIAL DISTRICT OF
	: AT
(Defendant)	: (Date)

The undersigned, on behalf of the Plaintiff/Defendant, propounds the following interrogatories to be answered by the Defendant/Plaintiff within thirty (30) days of the filing hereof.

(1) For your present residence:

(a) What is the address?

(b) What type of property is it (apartment, condominium, single-family home)?

(c) Who is the owner of the property?

(d) What is your relationship to the owner (landlord, parents, spouse)?

(e) When did you start living at this residence?

(2) List the names of all the adults that live with you.

(a) For each adult you live with, what is your relationship to them (spouse, sibling, roommate, parent, girlfriend or boyfriend)?

(b) For each adult you live with, what is their financial contribution to the household (who pays the rent, who pays the utilities, who buys the groceries)?

(3) Give the name and address of your employer.

(a) Are you employed full-time or part-time? Are you self-employed? If you are self-employed, do not answer (b) through (h) and go directly to Interrogatory #4.

(b) Are you paid a salary, on an hourly basis, or do you work on commission or tips?

(c) What is your income per week?

(d) How many hours per week do you usually work?

(e) Is overtime available, and if it is, how many hours per week do you work overtime and what are you paid?

(f) Do you, or have you, ever received bonus income from your employment and what is the basis for the bonus?

(g) Does your employer deduct federal and state taxes and Medicare from your wages or are you responsible for filing your own deductions? If you file, provide a copy of your most recent tax returns.

(h) Do you have a second source of employment? If so, please provide the same information as requested in (a) through (g).

(4) If you are self-employed:

(a) Are you part of a partnership, corporation or LLC, and if you are, give the name of the business and your role in it?

(b) Name the other people involved in your business and their roles.

(c) Does the business file taxes (if so, bring copies of the last two tax returns filed to your next court date)?

(d) Describe the work you do.

(e) How many hours per week do you work, on average?

(f) How much do you typically earn per hour?

(g) List your business expenses, and what they cost per week.

(h) State how you are typically paid (check or cash).

(i) Name the five people or companies you did most of your work for in the last year.

(j) If you have a business account, what bank is it at (bring copies of the last six months of bank statements to your next court date)?

(k) Do you work alone or do you employ anyone and pay them wages? If you employ anyone, please identify them, their relationship to you, if any, and the amount you pay them.

(*l*) How do you keep your payment and expense records? Do you employ an accountant, and if so, please give the name and address of the accountant responsible for your records?

(5) Except for your current job, list all the places you have worked for the last three years. For each place, list the address, the type of work you did, the dates you worked there and how much you were paid at each job.

(6) If you cannot work because of a disability, what is the nature of your disability?

(a) What is the date you became disabled?

(b) Is this disability permanent or temporary?

(c) If a doctor has told you that you cannot work, what is the name of the doctor and his or her office (bring a note from this doctor stating that you cannot work to your next court date)?

(d) If a doctor has told you that you cannot work, did he or she say you cannot work full-time or part-time?

(e) If you have a partial or permanent disability, please provide the percentage rating.

(f) Is your disability the result of an automobile accident, an accident at work, an accident at home or otherwise? Please give the date and details of the incident and whether you have filed a lawsuit or workers' compensation claim as a result.

(g) Have you had any children since the incident? If so, list their dates of birth.

(7) Have you applied for Social Security Disability (SSD) or Supplemental Security Income (SSI)?

(a) If you did, when did you apply and where are you in the application process?

(b) Have you been told if or when you will receive benefits? If so, who told you and what is the date they gave you?

(c) If your application for SSD and/or SSI has been denied, did you appeal? If you appealed, what is the status of the appeal and what lawyer, if any, represents you?

(d) Have you applied for or are you receiving state assistance?

(e) Are you a recipient of the state supplement program, medical assistance program, temporary family assistance program, state-administered general assistance program (SAGA medical or cash)? If so, state the source of the benefit, the effective date of the benefit and the date when your eligibility for benefits will be redetermined by the department of social services.

(8) Do you have any lawsuits pending?

(a) If you do, what type of case is it?

(b) Give the name, address, e-mail address and phone number of the lawyer handling the case for you.

(c) What amount do you expect to recover and when do you expect to receive it?

(d) If you have already settled the case, please provide a copy of the settlement statement.

(9) Do you expect to inherit any money or property in the next six months?

(a) If you do, who do you expect to inherit from and where do they or where did they live?

(b) What do you expect to inherit, what is its value and when do you expect to inherit it?

(c) What is the name and address of the person or lawyer handling the estate and where is the probate court in which the action is filed?

(10) Is anyone holding any money for you? If so, name the person, their relationship to you, their address and the amount of money they are holding.

(11) Do you own any rental properties, by yourself, with someone else or in trust? If the answer is yes:

(a) Is the property residential or commercial?

(b) Please identify the location of the property or properties, include the address and identify your ownership interest.

(c) Do you derive any income from the property? Do you calculate your net income from the property on a weekly, monthly or yearly basis?

(d) What are your expenses relating to the property or properties? Please state the amount of your mortgage payment, if any, and the amount of your taxes, insurance and utility payments, if any, and your method of payment of these expenses.

(e) Did you have to apply for a loan to finance any part of the real property or to finance the purchase of any personal property? If so, identify the item, state the amount of the loan and give a copy of the loan application.

(12) Are you the beneficiary or settlor of a trust?

(a) If so, please identify the trust, the type of trust, the date of the creation of the trust, the name and address of the trustee and how the trust is funded.

(b) How often do you receive a distribution from the trust and from whom and in what amounts are the distributions?

BY_____

I, _____, certify that I have reviewed the interrogatories set out above and the responses to those interrogatories and they are true and accurate to the best of my knowledge and belief.

_____

Subscribed and sworn to before me this_____ day of _____, 20____.

_____

Notary Public/
Commissioner of the Superior Court

CERTIFICATION

I certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on (*date*) _____ to all attorneys and self-represented parties of record and to all parties who have not appeared in this matter and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

Name and address of each party and attorney that copy was or will immediately be mailed or delivered to*

*If necessary, attach additional sheet or sheets with the name and address which the copy was or will immediately be mailed or delivered to.

_____

Signed (*Signature of filer*) Print or type name of person signing

_____

Date Signed

_____

Mailing address (*Number, street, town, state and zip code)* or

_____

Email address, if applicable

_____

Telephone number

COMMENTARY: The changes to this form comply with the changes made to Section 10-14 to clarify the process of certifying proof of service.

Form 208

Defendant's Supplemental Interrogatories

Workers' Compensation Benefits—No Intervening Plaintiff

No. CV-	: SUPERIOR COURT
(Plaintiff)	: JUDICIAL DISTRICT OF
VS.	: AT
(Defendant)	: (Date)

The undersigned, on behalf of the Defendant, hereby propounds the following interrogatories to be answered by the Plaintiff, _____, under oath, within thirty (30) days of the filing hereof insofar as the disclosure sought will be of assistance in the defense of this action and can be provided by the Plaintiff with substantially greater facility than could otherwise be obtained.

Definition: ''You'' shall mean the Plaintiff to whom these interrogatories are directed except that if suit has been instituted by the representative of the estate of a decedent, ward, or incapable person, ''you'' shall also refer to the Plaintiff's decedent, ward or incapable person unless the context of an interrogatory clearly indicates otherwise.

In answering these interrogatories, the Plaintiff(s), is (are) required to provide all information within their knowledge, possession or power. If an interrogatory has subparts, answer each subpart separately and in full, and do not limit the answer to the interrogatory as a whole. If any interrogatories cannot be answered in full, answer to the extent possible.

(1) State your full name, home address, and business address.

(2) State the workers' compensation claim number and the date of injury of each workers' compensation claim that you have filed as a result of the incident/occurrence alleged in the complaint.

(3) State the total amount paid on your behalf on each of the claims filed as a result of the incident/occurrence alleged in the complaint and referred to in Interrogatory #2, and if known, specify the amount of medical benefits, loss of income benefits, and specific award benefits, and if unknown, provide an authorization for the same.

(4) Identify any First Report of Injury, Notice of Claim for Compensation, Notice of Intention to Reduce or Discontinue Benefits, Notice to Compensation Commissioner and Employee of Intention to Contest Employee's Right to Compensation Benefits, and any reports of medical exams requested by the commissioner, respondent and/or employer arising out of the incident/occurrence alleged in the Complaint.

(5) Identify any voluntary agreements, approved stipulations to date, approved full and final stipulations and findings and awards, and findings and denials arising out of the incident/occurrence alleged in the Complaint and which formed the basis for your answer to Interrogatory #3.

(6) Which of your claims arising out of the incident/occurrence alleged in the Complaint and referenced in your answer to Interrogatory #2 are still open?

COMMENT:

These supplemental interrogatories are specifically directed at eliciting information about any workers' compensation claims, benefits and agreements. Unless the compensation carrier is a party to the action, it can be difficult to obtain this information. Often the Plaintiff's lawyers do not represent the client in the workers' compensation case, and although this information is

available in the workers' compensation file, providing these records to lawyers not involved in the compensation case could be time-consuming for the workers' compensation office staff. If compensation benefits were paid, these supplemental interrogatories may be served on the Plaintiff without leave of the court if there is no Intervening Plaintiff in the action.

DEFENDANT,

BY _____

I, _____, hereby certify that I have reviewed the above interrogatories and responses thereto and that they are true and accurate to the best of my knowledge and belief.

_____

(Plaintiff)

Subscribed and sworn to before me this_____ day of _____, 20____.

_____

Notary Public/Commissioner of the Superior Court

CERTIFICATION

I certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on (*date*) _____ to all attorneys and self-represented parties of record and to all parties who have not appeared in this matter and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

Name and address of each party and attorney that copy was or will immediately be mailed or delivered to*

*If necessary, attach additional sheet or sheets with the name and address which the copy was or will immediately be mailed or delivered to.

Signed (*Signature of filer*) Print or type name of person signing

Date Signed

Mailing address (*Number, street, town, state and zip code)* or

Email address, if applicable

Telephone number

COMMENTARY: The changes to this form comply with the changes made to Section 10-14 to clarify the process of certifying proof of service.

Form 209

Defendant's Supplemental Requests for Production

Workers' Compensation Benefits—No Intervening Plaintiff

No. CV-	: SUPERIOR COURT
(Plaintiff)	: JUDICIAL DISTRICT OF
VS.	: AT
(Defendant)	: (Date)

The Defendant(s) hereby request(s) that the Plaintiff provide counsel for the Defendant(s) with copies of the documents described in the following requests for production, or afford counsel for said Defendant(s) the opportunity or, where requested, sufficient written authorization, to inspect, copy, photograph or otherwise reproduce said documents. The production of such documents, copies or written authorizations shall take place at the offices of _____ not later than thirty (30) days after the service of the Requests for Production.

In answering these production requests, the Plaintiff(s) are required to provide all information within their possession, custody or control. If any production request cannot be answered in full, answer to the extent possible.

(1) Produce a copy of the First Report of Injury (Form FRI), Notice of Claim for Compensation (Form 30C), Notice of Intention to Reduce or Discontinue Benefits (Form 36), and Notice to Compensation Commissioner and Employee of Intention to Contest Employee's Right to Compensation Benefits (Form 43).

(2) Produce a copy of all of the approved voluntary agreements, approved stipulations to date, approved full and final stipulations, find-

ings and awards, and findings and denials that relate to one or more of the claims referenced in your answer to Interrogatory #2 on Form 208.

(3) Produce a copy of all reports of medical exams requested by the commissioner, respondent and/or employer that were prepared concerning any of the claims referenced in your answer to Interrogatory #2 on Form 208.

(4) If you are unable to specify the amount of medical benefits, loss of income benefits, and specific award benefits paid on your behalf, provide an authorization for the same.

COMMENT:

These supplemental requests for production are specifically directed at eliciting information about any workers' compensation claims, benefits and agreements. Unless the compensation carrier is a party to the action, it can be difficult to obtain this information. Often the Plaintiff's lawyers do not represent the client in the workers' compensation case, and although this information is available in the workers' compensation file, providing these records to lawyers not involved in the compensation case could be time-consuming for the workers' compensation office staff. If compensation benefits were paid, these supplemental requests for production may be served on the Plaintiff without leave of the court if there is no Intervening Plaintiff in the action.

DEFENDANT,

BY_____

CERTIFICATION

I certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on (*date*) _____ to all attorneys and self-represented parties of record and to all parties who have not appeared in this matter and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

Name and address of each party and attorney that copy was or will immediately be mailed or delivered to*

*If necessary, attach additional sheet or sheets with the name and address which the copy was or will immediately be mailed or delivered to.

_____

Signed (*Signature of filer*) Print or type name of person signing

_____

Date Signed

_____

Mailing address (*Number, street, town, state and zip code)* or

_____

Email address, if applicable

_____

Telephone number

COMMENTARY: The changes to this form comply with the changes made to Section 10-14 to clarify the process of certifying proof of service.

Form 210

Defendant's Interrogatories

Workers' Compensation Benefits—Intervening Plaintiff

No. CV-	: SUPERIOR COURT
(Plaintiff)	: JUDICIAL DISTRICT OF
VS.	: AT
(Defendant)	: (Date)

The undersigned, on behalf of the Defendant, hereby propounds the following interrogatories to be answered by the Intervening Plaintiff, _____,under oath, within thirty (30) days of the filing hereof insofar as the disclosure sought will be of assistance in the defense of this action and can be provided by the Intervening Plaintiff with substantially greater facility than could otherwise be obtained.

Definition: ''You'' shall mean the Intervening Plaintiff to whom these interrogatories are directed except that if suit has been instituted by the representative of the estate of a decedent, ward, or incapable person, ''you'' shall also refer to the Intervening Plaintiff's decedent, ward or incapable person unless the context of an interrogatory clearly indicates otherwise.

In answering these interrogatories, the Plaintiff(s) is (are) required to provide all information within their knowledge, possession or power. If an interrogatory has subparts, answer each subpart separately and in full, and do not limit the answer to the interrogatory as a whole. If any interrogatories cannot be answered in full, answer to the extent possible.

(1) State the name, business address, business telephone number, business e-mail address and relationship to the workers' compensation lien holder of the person answering these interrogatories.

(2) State the workers' compensation claim number and the date of injury of each workers' compensation claim that gave rise to the lien asserted by the workers' compensation lien holder.

(3) State the total amount paid on each claim referenced in the answer to Interrogatory #2, specifying the amount of medical benefits, loss of income benefits, and specific award benefits paid.

(4) Identify any First Report of Injury, Notice of Claim for Compensation, Notice of Intention to Reduce or Discontinue Benefits, Notice to Compensation Commissioner and Employee of Intention to Contest Employee's Right to Compensation Benefits, and any reports of medical exams requested by the commissioner, respondents and/or employer arising out of the incident/occurrence alleged in the Complaint.

(5) Identify any voluntary agreements, approved stipulations to date, approved full and final stipulations and findings and awards, and findings and denials.

(6) Identify the claims referenced in your answer to Interrogatory #2 that are still open.

COMMENT:

These standard interrogatories are intended to tailor the discovery from the intervening compensation carrier to the limited role and limited material information in the workers' compensation lien holder's file. The existing standard interrogatories directed to the Plaintiffs place an unnecessary burden on the parties, result in discovery disputes, and require the compensation carrier to produce information and documentation, in many instances, that is duplicative of the responses engendered by the same interrogatories served upon the Plaintiff in the case.

DEFENDANT,

BY_____

I, _____, hereby certify that I have reviewed the above interrogatories and responses thereto and that they are true and accurate to the best of my knowledge and belief.

_____
(Plaintiff)

Subscribed and sworn to before me this _____ day of _____, 20____.

_____
Notary Public/
Commissioner of the Superior Court

CERTIFICATION

I certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on (*date*) _____ to all attorneys and self-represented parties of record and to all parties who have not appeared in this matter and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

Name and address of each party and attorney that copy was or will immediately be mailed or delivered to*

*If necessary, attach additional sheet or sheets with the name and address which the copy was or will immediately be mailed or delivered to.

_____
Signed (*Signature of filer*) Print or type name of person signing

_____
Date Signed

_____

Mailing address (*Number, street, town, state and zip code)* or

_____

Email address, if applicable

_____

Telephone number

COMMENTARY: The changes to this form comply with the changes made to Section 10-14 to clarify the process of certifying proof of service.

Form 211

Defendant's Requests for Production

Workers' Compensation Benefits—Intervening Plaintiff

No. CV-	: SUPERIOR COURT
(Plaintiff)	: JUDICIAL DISTRICT OF
VS.	: AT
(Defendant)	: (Date)

The Defendant(s) hereby request(s) that the Intervening Plaintiff provide counsel for the Defendant(s) with copies of the documents described in the following requests for production, or afford counsel for said Defendant(s) the opportunity or, where requested, sufficient written authorization, to inspect, copy, photograph or otherwise reproduce said documents. The production of such documents, copies or written authorizations shall take place at the offices of _____ not later than thirty (30) days after the service of the Requests for Production.

In answering these production requests, the Plaintiff(s) are required to provide all information within their possession, custody or control. If any production request cannot be answered in full, answer to the extent possible.

(1) Produce a copy of the First Report of Injury (Form FRI), Notice of Claim for Compensation (Form 30C), Notice of Intention to Reduce or Discontinue Benefits (Form 36), and Notice to Compensation Com-

missioner and Employee of Intention to Contest Employee's Right to Compensation Benefits (Form 43).

(2) Produce a copy of all of the approved voluntary agreements, approved stipulations to date, approved full and final stipulations, findings and awards, and findings and denials that relate to one or more of the claims referenced in your answer to Interrogatory #2 on Form 210.

(3) Produce a copy of all reports of medical exams requested by the commissioner, respondent and/or employer that were prepared concerning any of the claims referenced in your answer to Interrogatory #2 on Form 210.

(4) Produce a copy of your workers' compensation lien calculations.

COMMENT:

These standard requests for production are intended to tailor the discovery from the intervening compensation carrier to the limited role and limited material information in the workers' compensation lien holder's file. The existing standard requests for production directed to the Plaintiffs place an unnecessary burden on the parties, result in discovery disputes, and require the compensation carrier to produce information and documentation, in many instances, that is duplicative of the responses engendered by the same requests for production served upon the Plaintiff in the case.

DEFENDANT,

BY _____

CERTIFICATION

I certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on (*date*) _____ to all attorneys and self-represented parties of record and to all parties who have not appeared in this matter and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

Name and address of each party and attorney that copy was or will immediately be mailed or delivered to*

*If necessary, attach additional sheet or sheets with the name and address which the copy was or will immediately be mailed or delivered to.

_____

Signed (*Signature of filer*) Print or type name of person signing

_____

Date Signed

_____

Mailing address (*Number, street, town, state and zip code)* or

_____

Email address, if applicable

_____

Telephone number

COMMENTARY: The changes to this form comply with the changes made to Section 10-14 to clarify the process of certifying proof of service.