

AMENDOLA & AMENDOLA

A LIMITED LIABILITY COMPANY
ATTORNEYS AT LAW

ELAINE S. AMENDOLA
BONNIE L. AMENDOLA

2000 POST ROAD
SUITE 205
FAIRFIELD, CONNECTICUT 06824
PHONE: (203) 319-1143
February 10, 2023

Hon. Michael A. Albis
Connecticut Superior Court
Judicial District of Middletown
1 Court Street, Middletown, CT

Re: Proposed Practice Book Rules Revisions

Dear Judge Albis,

On behalf of the Connecticut Chapter of the American Academy of Matrimonial Lawyers and the Family Law Section of the Connecticut Bar Association, thank you for considering the attached proposed revisions to the draft changes to the Connecticut Practice Book Rules provided on September 26, 2022. It is imperative to our Members, that reforms to the Pathways process be implemented to provide better access to justice in family cases.

As you know, the members of the bar were dismayed by the introduction of Pathways for several reasons. The lack of notice and opportunity to be heard through existing statutory procedures to enact new Practice Book rules were ignored before Pathways was implemented. The elimination of short calendar caused alarm because it provided a predictable method for docketing motions in a timely manner for judicial intervention.

The current delay between filing the Complaint and having a hearing on pendente lite motions needs to be rectified so practitioners can provide relief to litigants on pending motions and bad behavior is not rewarded by the persistent delay. The other benefit to short calendar was the exposure clients had to the judicial branch. This process fostered settlement of pending motions because the option was to face the judge.

Today, the elimination of timely, predictable interim hearings has litigants incentivized to try their cases increasing their litigation costs and the resulting burden on the court system. When clients need immediate judicial intervention, lawyers cannot advise them with any certainty when their motions will be heard and adjudicated. We cannot effectively help people who need immediate financial assistance or access to their children. As a result, the emergency motion docket is being abused.

Therefore, please consider the following solutions which are memorialized in Schedule A.

In divorce cases filed by an attorney, schedule a remote judicial conference with the attorney and the defendant approximately 30 days after the return date. The Judge will assign Track A, B or C and get the necessary processes started. Those processes can include a discovery scheduling order; an assessment of all pending issues – custody, parenting and financial; referral to Family Relations for parenting matters and potential resolution of pending issues; assignment to the Motion Docket or special assignment for a hearing date if greater than one hour; attention to automatic orders violations; and another scheduling conference may be assigned to insure that the orders and instructions from the initial judicial conference are being followed.

This method of using remote judicial management early in attorney-filed cases saves Family Services time and will enable that office to assist the judges with the work they were trained for – mediation and custody evaluations. A related problem is that attorneys often need discovery compliance to prepare for hearings or to reveal issues that need to be adjudicated. Attorneys will only pay attention if the discovery ordered is tailored to their specific needs and ordered by the Court. Therefore, counsel's time, their client's money and the Family Services officers time are wasted at the RPD.

The term "Case Date" is ambiguous not only to the self-represented parties and counsel, but also to the Judges. Preparations are hampered by the uncertainty as to whether the date and time will furnish a hearing, a conference with a judge, or some other event. Eliminate the Case Date and replace it with an actual event that is intended to take place, such as Hearing on Motions X,Y and Z, judicial conference or family relations report back. The docket can designate these events as in person or remote and three categories of events need to be created by the judicial branch administration rather than just one.

The Pathways process ignores post judgment motions which dominate the family court docket and consume 75-80% of judicial resources. Post judgment issues can be urgent such as child relocation, financial contempt allegations and financial modification requests. Thankfully, these are now being assigned RPD dates. However, as noted above, in attorney-filed cases a judicial conference should be instituted so these matters can be adjudicated with the same efficiency as pending family cases.

Finally, please see Schedule B which contains redlined edits to the original 9/26/2022 Draft Practice Book Rules. Ideally, we are seeking the implementation of Schedule A. However, in deference to the Judicial Branch and the original Pathways draft, we provide Schedule B.

On behalf of the entire Committee, we thank you for this opportunity to collaborate with the Judicial Branch to improve access to justice for everyone in Connecticut's family courts.

Bonnie Amendola, Ken Caisse, Aidan R. Welsh, Amy Calvo MacNamara & Margot Burkle

SCHEDULE A

Proposed Revisions to Practice Book Rules/ Family Court Pathways Process

OBJECTIONS: The current Practice Book Rules at Chapter 11 (Motions, Requests, Orders of Notice, and Short Calendar) and the Proposed Revisions to Pathways do not specify the time frame within which a non-moving party must file an objection to any motion or pleading. Accordingly, “The non-moving party may file a written objection to any motion or pleading within five business days from the date of filing in order to it to be timely and considered by the Court when ruling upon the motion.”

Section 25-30. Statements To Be Filed

In subsections (a) and (b), the word “business” shall be inserted before the word “days.”

Section 25-34. Procedure for Motion Docket

New Proposed subdivision (a):

“Each judicial district shall have a regular Motion Docket for scheduling pendente lite motions. Motions shall be placed on the Motion Docket in accordance with subsection (b) of this Section.

Oral argument is at the discretion of the judicial authority in any family matter for all matters governed by Chapter 13 and the following pendente lite Motions: Motion For Arbitration; Motion for Appraisal; Motion for Reconciliation; Motion for Reference to ADR; Motion For Return of Personal Property/Items; Motion to Approve Arbitration Award. A party may request assignment for oral argument on any such motion at the Mandatory Judicial Review Conference, the Resolution Plan Date, or by filing a Case Flow Request form (JD FM-292).

Oral argument is at the discretion of the judicial authority in any family matter except as to pendente lite motions for Alimony, Child Support, Custody, Exclusive Use of Premises, Temporary Injunction and Visitation. A party may request assignment for oral argument on any such motion at the Mandatory Judicial Review Conference, the Resolution Plan Date, or by filing a Case Flow Request form (JD FM-292).

Oral argument and testimony on pendente lite motions other than those placed on the Motion Docket shall be limited to no more than one day absent good cause shown, or at the discretion of the judicial authority.”

New Proposed subsection (b):

Delete the proposed first two paragraphs and add the following:

“Any matters governed by Chapter 13 and any motions for which oral argument and testimony is at the discretion of the judicial authority, shall be placed on the next available Motion Docket or given a special assignment date within thirty days from the date that the judicial authority grants the request for oral argument and testimony.

As to any pendente lite motion for which oral argument is of right, a request that a motion be placed on the next available Motion Docket or given a special assignment may be made as follows: (1) at the Mandatory Judicial Review Conference; (2) at the Resolution Plan Date; or (3) by filing a Case Flow Request (JD FM-292) form.”

Keep the paragraph that starts “In acting on a request to place a motion on the Motion Docket....”

Delete the last sentence of Subsection (b) that starts, “Oral argument and....”

Section 25-50 Case Management Under Pathways

New Proposed Subsection (a):

In any family matter as defined in Practice Book Section 25-1, in which an attorney of record appears, the case shall be assigned a Mandatory Judicial Review Conference with a Judge in that Judicial District thirty (30) days after the Return Date. The judicial authority shall determine at this conference the assignment of pendente lite motions for argument, a discovery scheduling order, if the case involves issues related to minor children whether the case will be referred to the Family Relations division for a Resolution Plan Date as set forth in Section 25-50 (a), assignment dates for pretrial and trial. The parties must follow the terms of the scheduling order, or the case may be dismissed, or other sanctions imposed. A party may request that the Mandatory Judicial Review Conference may be conducted remotely at the request of any party or the discretion of the Judge. Continuances of the Mandatory Judicial Review Conference will only be granted for good cause shown.

In any action seeking a dissolution of marriage or civil union or a legal separation as defined in Practice Book Section 25-1, in which any party is self-represented, the matter shall be assigned a Resolution Plan Date pursuant to Section 25-50(b) at least 90 days from the return date. If the parties appear on the Resolution Plan Date and are ready to proceed to an uncontested hearing, they shall be permitted an immediate waiver of the waiting period pursuant to General Statutes Section §46b-67(b).

New Proposed Subsection (b):

Delete the first sentence and add the following:

“If the case does not qualify for a Mandatory Judicial Review Conference as set forth in subsection (a) herein, a Resolution Plan Date shall be assigned in dissolution of marriage, dissolution of civil union, legal separation or annulment cases and in custody and visitation cases in accordance with Section 25-3 and 25-4, no less than forty five (45) days and no more than ninety (90) days from the return date to meet with a family relations counselor to identify (1) all matters where the parties agree, (2) how likely the parties are to reach an agreement on any disputed issues, and (3) the resources needed to resolve the case. The family relations counselor will recommend an action plan for the court’s consideration, including a recommendation for one of three tracks: Track A for cases that require the lowest level of court time and resources, including cases that are fully resolved on the resolution plan date; (2) Track B for cases that are expected to require a moderate level of court time and resources; or (3) Track C for cases with disputes about major issues that are expected to require the highest level of judicial time and resources. After considering the recommendation from the family relations counselor and input from the parties, the court shall make a scheduling order which may

include, but is not limited to, assigning the case to a track, scheduling future court dates (including assignment on the Motion Docket pursuant to Section 25-34, pretrial date, and trial date), ordering a schedule for discovery, and specifying the steps the parties must take between such court dates. The parties must follow the terms of the scheduling order, or the case may be dismissed, or other sanctions imposed.

Subsection (e) delete subsection (1) and add the following: “(1) assignment on the Motion Docket pursuant to Section 25-34 for matters that need to be considered before the final trial date.

Subsection (f) delete the word “calendar” and substitute the word “business” so it reads, “at least five business days prior to the scheduled pretrial...”

SCHEDULE B

Draft 9/26/2022

Proposed Practice Book Rule Revisions with Commentary

Sec. 25-1. Definitions Applicable to Proceedings on Family Matters

(a) The following shall be “family matters” within the scope of these rules: Any actions brought pursuant to General Statutes § 46b-1, including, but not limited to, dissolution of marriage or civil union, legal separation, annulment of marriage or civil union, alimony, support, custody, and change of name incident to dissolution of marriage or civil union, habeas corpus and other proceedings to determine the custody and visitation of children except those which are properly filed in the Superior Court as juvenile matters, the establishing of [paternity] parentage, enforcement of foreign matrimonial or civil union judgments, actions related to prenuptial or pre-civil union and separation agreements and to matrimonial or civil union decrees of a foreign jurisdiction, actions brought pursuant to General Statutes § 46b-15, custody proceedings brought under the provisions of the Uniform Child Custody Jurisdiction and Enforcement Act and proceedings for enforcement of support brought under the provisions of the Uniform Interstate Family Support Act.

(b) Whenever a rule applicable to family matters as defined in subsection (a) of this Section provides for the scheduling of a motion or other matter on the short calendar, the rule may be satisfied by the scheduling of the motion or other matter for a Case Date, Motion Docket, or other court event, so long as any time periods specified in the rule for the scheduling of the matter are observed.

Commentary: This Section has been amended to conform to the Connecticut Parentage Act, which has broadened matters of parentage in Connecticut beyond that of paternity. A subsection (b) was added to explain that rules applicable to family matters that require scheduling of a motion on a short calendar are satisfied by the scheduling of the motion for a Case Date, Motion Docket or other court event.

Sec. 25-3. Action for Custody of Minor Child*

Every application in an action for custody 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 application shall comply with Section 25-5. Such application shall be commenced by an order to show cause. Upon presentation of the application 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 should not be granted. The application, order and affidavit shall be served on the adverse party not less than twelve days before the date of the hearing or other court event, which shall not be [held] more than thirty-five days from the filing of the application.

(P.B. 1998.) (Amended June 28, 1999, to take effect Jan. 1, 2000; amended June 26, 2000, to take effect Jan. 1, 2001; amended June 26, 2006, to take effect Jan. 1, 2007.)

***APPENDIX NOTE:** The Rules Committee of the Superior Court enacted, and the judges of the Superior Court subsequently adopted, certain changes to the provisions of this rule in response to the public health and civil preparedness emergencies declared on March 10, 2020, and renewed on September 1, 2020, and January 26, 2021. See Appendix of Section 1-9B Changes.

Commentary: A disputed custody action is often not ready for a hearing on its first court appearance. Adding “or other court event” allows the court to assign the most appropriate court event, and still comply with the rule. Changing the timeframe from thirty days (approximately one month) to thirty-five days (exactly five weeks) provides the court with maximum flexibility to accommodate the case for whatever the appropriate court event is within the timeframe.

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. An application brought under this section shall comply with Section 25-5. 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 or other court event, which shall not be [held] more than thirty-five days from the filing of the application or verified petition.

(P.B. 1998.) (Amended June 28, 1999, to take effect Jan. 1, 2000; amended June 26, 2000, to take effect Jan. 1, 2001; amended June 26, 2006, to take effect Jan. 1, 2007; amended June 13, 2014, to take effect Jan. 1, 2015.)

***APPENDIX NOTE:** The Rules Committee of the Superior Court enacted, and the judges of the Superior Court subsequently adopted, certain changes to the provisions of this rule in response to the public health and civil preparedness emergencies declared on March 10, 2020, and renewed on September 1, 2020, and January 26, 2021. See Appendix of Section 1-9B Changes.

Commentary: A disputed visitation action is often not ready for a hearing on its first court appearance. Adding “or other court event” allows the court to assign the most appropriate court event, and still comply with the rule. Changing the timeframe from thirty days (approximately one month) to thirty-five days (exactly five weeks) provides the court with maximum flexibility to accommodate the case for whatever the appropriate court event is within the timeframe.

Sec. 25-5. Automatic Orders upon Service of Complaint or Application

(Amended June 28, 1999, to take effect Jan. 1, 2000.)

The following automatic orders shall apply to both parties, with service of the automatic orders to be made with service of process of a complaint for dissolution of marriage or civil union, legal separation, or annulment, or of an application for custody or visitation. An automatic order shall not apply if there is a prior, contradictory order of a judicial authority. The automatic orders shall be effective with regard to the plaintiff or the applicant upon the signing of the complaint or application and with regard to the defendant or the respondent upon service and shall remain in place during the pendency of the action, unless terminated, modified, or amended by further order of a judicial authority upon motion of either of the parties:

(a) In all cases involving a child or children, whether or not the parties are married or in a civil union:

- (1) Neither party shall permanently remove the minor child or children from the state of Connecticut, without written consent of the other or order of a judicial authority.
- (2) A party vacating the family residence shall notify the other party or the other party's attorney, in writing, within forty-eight hours of such move, of an address where the relocated party can receive communication. This provision shall not apply if and to the extent there is a prior, contradictory order of a judicial authority.
- (3) If the parents of minor children live apart during this proceeding, they shall assist their children in having contact with both parties, which is consistent with the habits of the family, personally, by telephone, and in writing. This provision shall not apply if and to the extent there is a prior, contradictory order of a judicial authority.
- (4) Neither party shall cause the children of the marriage or the civil union to be removed from any medical, hospital and dental insurance coverage, and each party shall maintain the existing medical, hospital and dental insurance coverage in full force and effect.
- (5) The parties shall participate in the parenting education program within sixty days of the return day or within sixty days from the filing of the application.
- (6) These orders do not change or replace any existing court orders, including criminal protective and civil restraining orders.

(b) In all cases involving a marriage or civil union, whether or not there are children:

- (1) Neither party shall sell, transfer, exchange, assign, remove, or in any way dispose of, without the consent of the other party in writing, or an order of a judicial authority, any property, except in the usual course of business or for customary and usual household expenses or for reasonable attorney's fees in connection with this action.

(A) Nothing in subsection (b) (1) shall be construed to preclude a party from purchasing or selling securities, in the usual course of the parties' investment decisions, whether held in an individual or jointly held investment account, provided that the purchase or sale is: (i) intended to preserve the estate of the parties, (ii) transacted either on an open and public market or at an arm's length on a private market, and (iii) completed in such manner that the purchased securities or sales proceeds resulting from a sale remain, subject to the provisions and exceptions recited in subsection (b) (1), in the account in which the securities or cash were maintained immediately prior to the transaction. Nothing contained in this subsection shall be construed to apply to a party's purchase or sale on a private market of an interest in an entity that conducts a business in which the party is or intends to become an active participant.

(B) Notwithstanding the requirement of subparagraph (A) of subsection (b) (1) that the transaction be made in the usual course of the parties' investment decisions, if historically the parties' usual course of investment decisions involves their discussion of proposed transactions with each other before they are made, but a sale proposed by one party is a matter of such urgency as to timing that the party proposing the sale has a good faith belief that the delay occasioned by such discussion would result in loss to the estate of the parties, then the party proposing the sale may proceed with the transaction without such prior discussion, but shall

notify the other party of the transaction immediately upon its execution; provided, that a sale permitted by this subparagraph (B) shall be subject to all other conditions and provisions of subparagraph (A) of subsection (b) (1), so long as the transaction is intended to preserve the estate of the parties.

(2) Neither party shall conceal any property.

(3) Neither party shall encumber (except for the filing of a lis pendens) without the consent of the other party, in writing, or an order of a judicial authority, any property except in the usual course of business or for customary and usual household expenses or for reasonable attorney's fees in connection with this action.

(4) Neither party shall cause any asset, or portion thereof, co-owned or held in joint name, to become held in [his or her] that party's name solely without the consent of the other party, in writing, or an order of the judicial authority.

(5) Neither party shall incur unreasonable debts hereafter, including, but not limited to, further borrowing against any credit line secured by the family residence, further encumbering any assets, or unreasonably using credit cards or cash advances against credit cards.

(6) Neither party shall cause the other party to be removed from any medical, hospital and dental insurance coverage, and each party shall maintain the existing medical, hospital and dental insurance coverage in full force and effect.

(7) Neither party shall change the beneficiaries of any existing life insurance policies, and each party shall maintain the existing life insurance, automobile insurance, homeowners or renters insurance policies in full force and effect.

(8) If the parties are living together on the date of service of these orders, neither party may deny the other party use of the current primary residence of the parties, whether it be owned or rented property, without order of a judicial authority. This provision shall not apply if there is a prior, contradictory order of a judicial authority.

(c) In all cases[:

(1) T]the parties shall each complete and exchange sworn financial statements substantially in accordance with a form prescribed by the chief court administrator within thirty days of the return day. The parties may thereafter enter and submit to the court a stipulated interim order allocating income and expenses, including, if applicable, proposed orders in accordance with the uniform child support guidelines.

[(2) The case management date for this case is _____. The parties shall comply with Section 25-50 to determine if their actual presence at the court is required on that date.]

(d) The automatic orders of a judicial authority as enumerated above shall be set forth immediately following the party's requested relief in any complaint for dissolution of marriage or civil union, legal separation, or annulment, or in any application for custody or visitation, and shall set for the following language in bold letters:

Failure to obey these orders may be punishable by contempt of court. If you object to or seek modification of these orders during the pendency of the action, you have the right to a hearing before a judge within a reasonable time.

The clerk shall not accept for filing any complaint for dissolution of marriage or civil union, legal separation, or annulment, or any application for custody or visitation, that does not comply with this subsection.

(P.B. 1998.) (Amended June 29, 1998, to take effect Jan. 1, 1999; subdivision (a) (1) was amended on an interim basis, pursuant to the provisions of Section 1-9 (c), to take effect Jan. 1, 1999; amended June 28, 1999, to take effect

Jan. 1, 2000; amended August 22, 2001, to take effect Jan. 1, 2002; amended June 26, 2006, to take effect Jan. 1, 2007; amended June 29, 2007, to take effect Jan. 1, 2008; amended June 20, 2011, to take effect Jan. 1, 2012; amended June 13, 2019, to take effect Jan. 1, 2020.)

Commentary: Under Pathways, the case will be assigned its first court event much sooner than the Case Management Date would have been. References to gender have also been removed from subsection (b) (4).

Sec. 25-26. Modification of Custody, Alimony or Support

(a) Upon an application for a modification of an award of alimony pendente lite, alimony or support of minor children, filed by a person who is then in arrears under the terms of such award, the judicial authority shall, upon hearing, ascertain whether such arrearage has accrued without sufficient excuse so as to constitute a contempt of court, and, in its discretion, may determine whether any modification of current alimony and support shall be ordered prior to the payment, in whole or in part as the judicial authority may order, of any arrearage found to exist.

(b) Either parent or both parents of minor children may be cited or summoned by any party to the action to appear and show cause, if any they have, why orders of custody, visitation, support or alimony should not be entered or modified.

(c) If any applicant is proceeding without the assistance of counsel and citation of any other party is necessary, the applicant shall sign the application and present the application, proposed order and summons to the clerk; the clerk shall review the proposed order and summons and, unless it is defective as to form, shall sign the proposed order and summons and shall assign a date for a hearing or other court event on the application.

(d) Each motion for modification of custody, visitation, alimony or child support shall state clearly in the caption of the motion whether it is a pendente lite or a postjudgment motion.

(e) Each motion for modification shall state the specific factual and legal basis for the claimed modification and shall include the outstanding order and date thereof to which the motion for modification is addressed.

(f) On motions addressed to financial issues, the provisions of Section 25-30 shall be followed.

(g) Upon or after entry of judgment of a dissolution of marriage, dissolution of civil union, legal separation or annulment, or upon or after entry of a judgment or final order of custody and/or visitation for a petition or petitions filed pursuant to Section 25-3 and/or Section 25-4, the judicial authority may order that any further motion for modification of a final custody or visitation order shall be appended with a request for leave to file such motion and shall conform to the requirements of subsection (e) of this section. The specific factual and legal basis for the claimed modification shall be sworn to by the moving party or other person having personal knowledge of the facts recited therein. If no objection to the request has been filed by any party within ten days of the date of service of such request on the other party, the request for leave may be determined by the judicial authority with or without hearing. If an objection is filed, the request shall be placed on the next short calendar, unless the judicial authority otherwise directs. At such hearing, the moving party must demonstrate probable cause that grounds exist for the motion to be granted. If the judicial authority grants the request for leave, at any time during the pendency of such a motion to modify, the judicial authority may

determine whether discovery or a study or evaluation pursuant to Section 25-60 shall be permitted.

(P.B. 1978-1997, Sect. 464.) (Amended June 20, 2005, to take effect Jan. 1, 2006; amended June 29, 2007, to take effect Oct. 1, 2007.)

Commentary: A disputed motion for modification is not always ready to be heard on its first court appearance. Assigning a hearing may be untimely and not an efficient or effective use of the parties' time or the court's resources. Adding "or other court event" allows the matter to be given the court resources it needs. Should the parties reach an agreement at any court event, such agreement may be put on the record without the need for further court appearance.

Sec. 25-30. Statements To Be Filed

(a) At least five days before the hearing date of a motion or order to show cause concerning alimony, support, or counsel fees, or at the time a dissolution of marriage or civil union, legal separation or annulment action or action for custody or visitation is scheduled for a hearing, each party shall file, where applicable, a sworn statement substantially in accordance with a form prescribed by the chief court administrator, of current income, expenses, assets and liabilities. Then the attorney general has appeared as a party in interest, a copy of the sworn statements shall be served upon [him or her] the attorney general in accordance with Sections 10-12 through 10-17. Unless otherwise ordered by the judicial authority, all appearing parties shall file sworn statements within thirty days prior to the date of the decree. Notwithstanding the above, the court may render pendente lite and permanent orders, including judgment, in the absence of the opposing party's sworn statement.

(b) At least [ten] five days before the scheduled family special masters session, alternative dispute resolution session, or judicial pretrial, the parties shall serve on each appearing party, but not file with the court, written proposed orders, and, unless the matter is uncontested or the defendant has not appeared, at least [ten] five days prior to the date of the final [limited contested or contested] hearing or trial, the parties shall file with the court and serve on each appearing party written proposed orders.

(c) The written proposed orders shall be comprehensive and shall set forth the party's requested relief including, where applicable, the following:

- (1) a parenting plan;
- (2) alimony;
- (3) child support;
- (4) property division;
- (5) counsel fees;
- (6) life insurance;
- (7) medical insurance; and
- (8) division of liabilities.

(d) The proposed orders shall be neither factual nor argumentative but shall, instead, only set forth the party's claims.

(e) Where there is a minor child who requires support, the parties shall file a completed child support and arrearage guidelines worksheet at the time of any court hearing concerning child support; or at the time of a final hearing in an action for dissolution of marriage or civil union, legal separation, annulment, custody or visitation.

(f) Any pendente lite motion filed in an action described in subsection (a) of this Section shall, unless otherwise scheduled or docketed by the court, be deemed automatically scheduled for the next Case Date held in the action or, if no future Case Dates are to be held, then for the time of trial. If a motion is filed less than 5 business days before the Case Date and the nonmoving party objects to having it heard on the Case Date, the motion will be not heard on that date unless the court determines that the interests of justice would be served by hearing it on the Case Date and doing so would cause no substantial prejudice to the nonmoving party.

(f) (g) At the time of any hearing, including pendente lite and postjudgment proceedings, in which a moving party seeks a determination, modification, or enforcement of any alimony or child support order, a party shall submit an Advisement of rights Re: [Wage] Income Withholding Form (JD-FM-71).

(P.B. 1978-1997, Sec. 463.) (Amended June 24, 2002, to take effect Jan. 1, 2003; amended June 26, 2006, to take effect Jan. 1, 2007.)

Commentary: Subsection (a) has been amended to remove references to gender. Subsection (b) was amended to remove obsolete references to “limited contested” and “contested” matters, to include clarifying language regarding written proposed orders, and to change the time to exchange/file written proposed orders from ten to five days prior to the designated court event to be consistent with Section 25-50 (f). Subsection (f) now adds language to explain that motions are automatically scheduled for the next Case Date or the time of trial, whichever is next. The former subsection (f) is now a new subsection (g) and was amended to correct the title of the JD-FM-71 form.

25-34. Procedure for [Short Calendar] Motion Docket

(a) Each judicial district shall have a regular Motion Docket for scheduling pendente lite motions. Motions shall be placed on the Motion Docket in accordance with subsection (b) of this Section.

[(a)] (b) With the exception of matters governed by Chapter 13 or a motion to waive the statutory time period in a[n] pending uncontested dissolution of marriage or legal separation case under General Statutes § 46b-57 (b), oral argument on any motion or the presentation of ~~evidencetestimony~~ thereon shall be allowed sooner than the next court event at which the motion would otherwise be deemed scheduled pursuant to Section 25-30 (f) if [the] an appearing [parties have followed administrative policies for marking the motion ready and for screening with family services] party has requested that such motion be placed on the Motion Docket and the judicial authority has granted such request.

A request that a motion be placed on the Motion Docket may be made as follows: (1) When the parties appear before a judge, either party may orally request that a particular motion be placed on an upcoming Motion Docket, or (2) By filing a Caseflow Request (JD-FM-292) form with the section for requesting placement of a pendente lite motion on a Motion Docket completed.

In acting on a request to place a motion on the Motion Docket, the court may consider the following factors along with any other factors the court deems relevant: (1) The nature of the motion and the reasons stated for the request; (2) If not placed on the Motion Docket, the length of time before the next court date at which the motion could be heard; (3) Whether the motion is related to, or duplicative of, another motion or

motions already heard or scheduled to be heard; (4) If the case has been assigned to a designated judge, the availability of that judge to hear the motion if it is placed on a Motion Docket.

Oral argument ~~and the presentation of testimony~~ on motions made under Chapter 13 are at the discretion of the judicial authority.

[b] (c) Any [such] motion filed to waive the statutory time period in an uncontested dissolution of marriage or legal separation case will not be placed on the [short calendar] Motion Docket. The clerk shall bring the motion as soon as practicable to either the judicial authority assigned to hear the case, or, if a judicial authority has not yet been assigned, to the presiding judicial authority for a ruling on the papers. If granted, the uncontested dissolution or legal separation is to be scheduled in accordance with the request of the parties to the degree that such request can be accommodated, including scheduling the matter on the same day that the motion is granted.

[c] (d) If the judicial authority has determined that oral argument or the presentation of testimony or other evidence is necessary on a motion made under Chapter 13, the judicial authority shall set the matter for oral argument or an evidentiary hearing ~~testimony~~ on a [short calendar date or other] date [as] determined by the judicial authority. If the judicial authority has determined that oral argument or the presentation of testimony or other evidence may be of assistance to the judicial authority on a motion made under Chapter 13, the judicial authority may set the matter for oral argument or an evidentiary hearing on a [short calendar date or other] date [as] determined by the judicial authority.

[d] [If the judicial authority has determined that oral argument or an evidentiary hearing is necessary on a motion made under Chapter 13 and has not set it down on a hearing date, the movant may reclaim the motion within thirty days of the date the motion appeared on the calendar.] (e) Parties are required to appear and be prepared to proceed with a hearing on the day of the assigned Motion Docket unless a timely request for continuance has been granted, or the motion is withdrawn or resolved by agreement in advance. If the matter will require more than one hour of court time, it may be specifically assigned for a date certain.

(f) Failure to appear and present argument on the date set by the judicial authority shall constitute a waiver of the right to argue unless the judicial authority orders otherwise. [Unless for good cause shown, no motion may be reclaimed after a period of three months from the date of filing.] This subsection shall not apply to those motions where counsel appeared on the date set by the judicial authority and entered into an agreement for a scheduling order for discovery, depositions and a date certain for hearing that was approved and ordered by the court.

(g) Nothing in this Section shall prevent the judicial authority from assigning any other motion to be heard on the Motion Docket.

Commentary: Under Pathways, a Motion Docket, which is explained in this Section, has been created for matters of urgency that cannot wait until the next scheduled court event. While it is neither necessary nor possible to enumerate all of the factors considered in a scheduling decision, the rule is intended to provide guidance to the parties as to some of the criteria the court may generally consider in placing a matter on the Motion Docket.

Sec. 25-50. Case Management Under Pathways

The Pathways approach shall be followed and shall include:

(a) [The presiding judge or a designee shall determine by the case management date which track each case shall take and assign each case for disposition. That date shall be set on a schedule approved by the presiding judge.] A resolution plan date shall be assigned in dissolution of marriage, dissolution of civil union, legal separation, and annulment cases, custody and visitation cases, a resolution plan date shall be assigned, no less than 30 days and no more than 60 days from the return date within a reasonable timeframe, and in custody and visitation cases in accordance with Sections 25-3 and 25-4, to meet with a family relations counselor to identify (1) all matters where the parties agree, (2) how likely the parties are to reach an agreement on any disputed issues, and (3) the resources needed to resolve the case. The family relations counselor will recommend an action plan for the court's consideration, including a recommendation for one of three tracks: (1) Track A for cases that require the lowest level of court time and resources, including cases that are fully resolved on the resolution plan date (2) Track B for cases that are expected to require a moderate level of court time and resources, or (3) Track C for cases with disputes about major issues that are expected to require the highest level of judicial time and resources. After considering the recommendations of the family relations counselor and input from the parties, the court shall make a scheduling order which may include, but is not limited to, assigning the case to a track, scheduling future court dates (including one or more Case Dates), ordering a schedule for discovery, and specifying the steps the parties must take between such court dates. The parties must follow the terms of the scheduling order, or the case may be dismissed, or other sanctions may be imposed.

(b) In all cases, except those seeking only visitation, [unless the party or parties appear and the case proceeds to judgment under subsection (c) or (d) on the case management date,] the party or parties shall file sworn financial affidavits on or before the resolution plan date. [case management date:

- (1) a case management agreement (JD-FM-163);
- (2) sworn financial affidavits;
- (3) a proposed parenting plan, if there are minor children.

If the parties or counsel have not filed these documents on or before the case management date, or in a case with parenting disputes where counsel or self-represented parties have not come to court on the case management date, the case may be dismissed or other sanctions may be imposed.]

(c) If, in a dissolution of marriage, dissolution of civil union, legal separation or annulment case, the defendant has not filed an appearance [by the case management date,] within thirty days after the return date, the plaintiff may file a motion in accordance with C.G.S. §46b-67 (c) and, if granted, appear and proceed to judgment [on the case management date] without further notice to the defendant, provided the plaintiff has complied with the provisions of Section 25-30. [Otherwise, the plaintiff must file, on or before the case management date, the documents listed in subsection (b) and the clerk shall assign the matter to a date certain for disposition.]

(d) If the matter is uncontested, the parties may follow the proper procedures to proceed to judgment without a hearing or may appear and proceed to judgment [on the case management date,] at a hearing at any time, subject to the schedule of the court and provided the [plaintiff] parties [has] have complied with the provisions of Section 25-30.

If the ninety day waiting period has not yet lapsed, the parties must first seek a waiver of such waiting period pursuant to General Statutes § 46b-67 (b) prior to proceeding to judgment. Otherwise[, the parties must file, on or before the case management date, the documents listed in subsection (b) and] the clerk shall assign the matter to a date certain for disposition.

(e) [In cases where there are financial disputes, the parties do not have to come to court on the case management date, but must file on or before the case management date the documents listed in subsection (b). Thereafter, the matter may be directed to any alternative dispute resolution mechanism, private or court-annexed, including, but not limited to, family special masters and judicial pretrial. If not resolved, the matter will be assigned a date certain for trial.] In a Track B or Track C case, the scheduling order issued by the court may include, but is not limited to, one or more of the following: (1) One or more Case Dates for the court to hear or address matters that need to be considered before the final trial date, (2) a date for pretrial, (3) a trial date, and (4) a discovery schedule.

(f) [In cases where there are parenting disputes, the parties and counsel must appear for a case management conference on the case management date. If parenting disputes require judicial intervention, the appointment of counsel or a guardian ad litem for the minor child, or case study or evaluation by family services or by a private provider of services, a target date shall be assigned for completion of such study and the final conjoint thereon and, thereafter, a date certain shall be assigned for disposition.] Unless otherwise ordered by the court, in any case assigned a judicial, family relations or special master pretrial the parties must exchange and submit to the authority presiding over the pretrial at least five calendar days prior to the scheduled pretrial (1) A non-argumentative memorandum that sets forth the facts relevant to the criteria in General Statutes §§ 46b-81 and 46b-82, (2) Written proposed orders in accordance with Section 25-30 (c) and (d), which shall be comprehensive and state the parties' requested relief, (3) Current sworn financial affidavits, including a detailed income statement, a list of assets and liabilities, the value of all assets, current value of all retirement and employment benefits and any proposed distribution, and (4) If there are minor children, a fully completed child support guidelines worksheet that the parties agree to. If the parties do not agree, each party shall individually provide a fully completed child support guidelines worksheet.

The parties must be prepared to provide any supporting documentation needed and bring such documentation to the pretrial.

If a party does not fully comply with this subsection, sanctions may be imposed by the presiding judge.

[(g) With respect to subsections (e) and (f), if a trial is required, such order may include a date certain for a trial management conference between counsel or self-represented parties for the purpose of premarking exhibits and complying with other orders of the judicial authority to expedite the trial process.]

(P.B. 1998.) (Amended June 28, 1999, to take effect Jan. 1, 2000; amended June 12, 2015, to take effect Jan. 1, 2016.)

TECHNICAL CHANGE: In subsection (b), the reference to "subsection" in the disjunctive was made singular.

Commentary: This Section has been amended to reflect the elements and requirements of case management under Pathways.

The changes are intended to align this rule with the statutory provisions.

Sec. 25-51. When Motion for Default for Failure To Appear Does Not Apply

(a) If, in any case involving a dissolution of marriage or civil union, legal separation, or annulment, the defendant has not filed an appearance by the [case management date,] expiration of the ninety day statutory waiting period, the plaintiff may proceed to judgment [on the case management date] without further notice to such defendant. Section 17-20 concerning motions for default shall not apply to such cases.

(b) If the defendant [files an appearance by the case management date, the presiding judge or a designee shall determine which track the case shall take pursuant to Section 25-50.] has not filed an appearance within thirty days after the return date, the plaintiff may make a motion to proceed to judgment in accordance with Section 25-50.

(c) If the defendant files an appearance before the case is in judgment, the presiding judge or a designee shall determine which track the case shall take pursuant to Section 25-50.

Commentary: The changes are intended to align this rule with the statutory provisions.

Sec. 25-53. Reference of Family Matters

In any family matter the court may, upon its own motion or upon motion of a party, refer any [contested, limited contested, or uncontested] matter for hearing and decision to a judge trial referee who shall have been a judge of the referring court. Such matters shall be deemed to have been referred for all further proceedings and judgment, including matters pertaining to any appeal therefrom, except that the referring court may retain jurisdiction to hear and decide any pendente lite or contempt matters.

(P.B. 1978-1997, Sec. 458.)

Commentary: This rule has been amended to delete obsolete references to case status.