
From: Greenfield, Johanna
Sent: Tuesday, February 6, 2024 10:49 AM
To: Del Ciampo, Joseph
Cc: Diana, Leo; Goldstein, Damon; Collins, Nicole
Subject: Revised Proposal for Pathways
Attachments: Proposed sections 25-17 25-23 25-34 25-50 and 25-51 LVD 2_5_2024.docx

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Joe,

Attached is a revised draft of the outstanding Pathways proposals for the Rules Committee from Judge Diana.

The only rule proposal that has changed is 25-50 as a result of a meeting he had with the folks from the Legal Services community, and it is only the last two sentences of subsection (a) that he changed. There is no change in the commentary.

Thank you very much for your help.

Johanna

25-17. –Date for Hearing*

The hearing on the motion shall be [placed on the short calendar to be] held not less than fifteen days following the filing of the motion[,] unless the judicial authority otherwise directs.

(P.B. 1998)

***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. The public health emergency was renewed on June 28, 2022, and is scheduled to expire on December 28, 2022, or when the federal public health emergency ends. See Appendix of Section 1-9B Changes.

Commentary: Reference to placing the matter on the short calendar has been removed from this section.

25-23. Motions, Requests[,] and Orders of Notice [and Short Calendar]

The provisions of Sections 11-1, 11-2, 11-4, 11-5, 11-6, 11-8, 11-10, 11-11, 11-12, 11-19, 12-1, 12-2 and 12-3 of the rules of practice shall apply to family matters as defined in Section 25-1.

(P.B. 1998.) (Amended May 14, 2003, to take effect July 1, 2003.)

TECHNICAL CHANGE: Technical changes were made for consistency in punctuation.

Commentary: Reference to “short calendar” has been removed from the title of this section.

25-34. [Procedure for Short Calendar] Scheduling of Motions

(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) Any pendente lite motion filed shall, unless otherwise scheduled or docketed by the court, be deemed automatically scheduled for the next Case Date held in the action pursuant to section 25-50 or, if no future Case Dates are to be held, then for the time of trial. At least five business days before a Case Date, each party shall provide to the other party and file with the court a notice listing those of the party’s pending pendente lite motions, if any, that the party wishes to pursue at the Case Date, in the order of priority that the party wishes the motions to be heard. If a party fails to provide and file such list, or files a motion less than five business days before the Case Date and the nonmoving party objects to having such motion heard on the Case Date, the motion will not be 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.

With the exception of matters governed by Chapter 13 [or a motion to waive the statutory time period in an uncontested dissolution of marriage or legal separation case under General Statutes § 46b-67 (b)], oral argument on any motion or the presentation of [testimony] evidence thereon shall be allowed before the next court event at which the motion would otherwise be deemed scheduled pursuant to this section 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] evidence on motions made under Chapter 13 and other nonarguable motions are at the discretion of the judicial authority. The nonmoving party shall have a period of five business days to file an objection to such a motion, unless the Practice Book specifies a different period of time for objection to the particular type of motion filed, in which case the different period shall apply. After allowing the applicable period for objection, the court may, in its discretion, rule on the motion or assign the matter for oral argument or an evidentiary hearing pursuant to subsection (d) of this section, provided that argument or hearing shall be scheduled if any other rule applicable to the motion in question requires the same when an objection is filed.

[(b) 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. 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 paper. 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) If the judicial authority has determined that oral argument or the presentation of [testimony] evidence is necessary on a motion made under Chapter 13 or other nonarguable motion, the judicial authority shall set the matter for oral argument or [testimony] an evidentiary hearing on a Case Date or Motion Docket upon consideration of the same factors set forth in Section 25-34(b) for the placement of arguable motions on the Motion Docket, or other [short calendar date or other] date [as] determined by the judicial authority.

(d) [If the judicial authority has determined that oral argument 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.] 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.

(e) 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.

(h) Unless otherwise ordered by the court: (1) A post-judgment motion that does not relate to emergency ex parte relief will be assigned a resolution plan date in the same manner as set forth in section 25-50 (a); (2) If an additional post-judgment motion is filed in the same case before the resolution plan date is held, it will be scheduled for the same resolution plan date; and (3) If an additional post-judgment motion is filed in the same case after the resolution plan date is held, but before the court hearing date for the original motion, the subsequent motion will be scheduled for the same hearing date as the original motion.

(P.B. 1998) (Amended June 20, 2011, to take effect Aug. 15, 2011; amended June 24, 2016 to take effect Jan. 1, 2017.)

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. Language was added to subsection (b) to (1) describe how motions will be handled on Case Dates; (2) address how objections to nonarguable motions will be handled; and (3) make language changes at the request of the bar regarding the use of the words “testimony” and “evidence.” A subsection (h) was added to set forth the procedures for the scheduling of post-judgment motions.

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, which shall be assigned in dissolution of marriage, dissolution of civil union, legal separation, and annulment cases, no less than 30 days and no more than 60 days from the return date, 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. Failure to appear at the resolution plan date or comply with the court’s orders regarding the resolution plan date may result in sanctions, or the entry of a nonsuit, default, or dismissal. After considering the recommendations of the family relations counselor and input from the parties, the court shall make a scheduling order which shall 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. Nothing in this section shall preclude the court from issuing temporary orders on the resolution plan date on any pending motion before the court by consent of the parties or as determined by the judicial authority.

(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,] no sooner than thirty days after the return date, the plaintiff may file a motion in accordance with General Statutes Section 46b-67 (b) 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.] If such motion is filed, and the respondent was served personally or at the respondent's usual place of abode, the court may, in accordance with General Statutes Section 46b-67 (b), enter judgment with or without a hearing. If service was made in any other manner, no judgment shall be entered until after a hearing held at least sixty days after the return date.

(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 has] parties have complied with the provisions of Section 25-30. 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) assignment of motions to a Motion Docket, (3) a date for pretrial, (4) a trial date, and (5) 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.

(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.] 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 business 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.

(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, and other changes are intended to align this rule with the statutory provisions contained therein.

Sec. 25-51. When Motion for Default for Failure [T]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], the plaintiff may proceed to judgment in accordance with Section 25-50 and General Statutes §46b-67. [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.]

(P.B. 1998.) (Amended June 26, 2006, to take effect Jan. 1, 2000; amended June 12, 2015, to take effect Jan. 1, 2007; amended June 12, 2015, to take effect Jan. 1, 2016.)

Commentary: This Section has been amended to align this rule with the statutory provisions relating to such matters.