
Subject: **
Attachments: Clean Copy - Revisions to 25-34 (Stewart J) 25-50 after LVD Meeting with LS CBA AAML 3_8_2024.docx

From: Diana, Leo <Leo.Diana@jud.ct.gov>
Sent: Monday, March 11, 2024 9:30 AM
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Subject: **

Attorney Del Ciampo,
Attached please find the final revised version of PB 25-34 and 25-50, the two-remaining section at issue. After meeting with the stakeholders (CBA/ Family Section, AAML and the Legal Service consortium) I am happy to report that they are not opposed to the rules as drafted. I will be proposing their adoption for the Committees consideration at the next meeting. I believe that these were the only two remaining sections not approved. Let me know if you need anything else.
Thank you.

Hon. Leo V. Diana
Judge, Superior Court
Connecticut Judicial Branch
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25-34. Scheduling of Motions

(a) Any pendente lite motion filed shall, unless scheduled for the Motion Docket pursuant to subsection (c) of this section or 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.

(b) Each judicial district shall have a regular Motion Docket for scheduling pendente lite motions. Such docket shall be scheduled on a regular basis, but at least once each month. Motions shall be placed on the Motion Docket in accordance with subsection (c) of this Section.

(c)(1) With the exception of matters governed by Chapter 13, oral argument on any motion or the presentation of evidence thereon shall be allowed before the next court event at which the motion would otherwise be deemed scheduled pursuant to this section if an appearing party has requested that such motion be placed on the Motion Docket and the judicial authority has granted such request.

(2) 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. Nothing in this section shall preclude a party from requesting that a motion be placed on the Motion Docket prior to the resolution plan date.

(3) 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, including but not limited to the need of either party for a court order regarding (A) sufficient child support or alimony to meet the reasonable current expenses, (B) custody, visitation or decision-making regarding children, (C) occupancy of the party's dwelling unit, (D) use of a motor vehicle, or (E) essential personal property of one party in the possession of the other party; (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.

(4) If the matter will require more than one hour of court time, it may be specifically assigned for a date certain.

(5) 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.

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

(d) Oral argument and the presentation of 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, 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.

If the judicial authority has determined that oral argument or the presentation of 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 an evidentiary hearing on a Case Date or Motion Docket upon consideration of the same factors set forth in Section 25-34(c) for the placement of arguable motions on the Motion Docket, or other date determined by the judicial authority.

(e) 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. 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.

(f) 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. Nothing in this subsection shall preclude the court from issuing an order on the resolution plan date.

(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) 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 on that day 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 pleading before the court by consent of the parties or as otherwise determined by the judicial authority.

(b) In all cases, except those seeking only visitation, the party or parties shall file sworn financial affidavits on or before the resolution plan date.

(c) If, in a dissolution of marriage, dissolution of civil union, legal separation or annulment case, the defendant has not filed an appearance 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 without further notice to the defendant, provided the plaintiff has complied with the provisions of Section 25-30. 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 at a hearing at any time, subject to the schedule of the court and provided the parties have complied with the provisions of Section 25-30. Otherwise the clerk shall assign the matter to a date certain for disposition.

(e) 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) 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.