

*SECOND JUDICIAL CIRCUIT OF THE UNITED STATES  
UNITED STATES COURTHOUSE  
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NEW YORK, NEW YORK 10007  
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ROBERT A. KATZMANN  
CHIEF JUDGE

KAREN GREVE MILTON  
CIRCUIT EXECUTIVE

JUDICIAL COUNCIL  
APPROVED

DEC 22 2017

C/E

**MEMORANDUM  
December 21, 2017**

To: Second Circuit Judicial Council

From: Karen Greve Milton, Circuit Executive 

**Re: Proposed Revisions to Local Civil Rules**

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The Board of Judges for the District of Connecticut has approved a proposal to revise 17 Local Civil Rules and 1 Civil Form. The Board of Judges for the District of Connecticut has requested the Second Circuit Judicial Councils final approval.

The proposals are reflected in the attached revised Local Rules. Also, attached is a redlined version of each Rule that illustrates the specific changes.

- |     |                        |                                                                       |
|-----|------------------------|-----------------------------------------------------------------------|
| 1.  | Local Civil Rule 30    | Depositions                                                           |
| 2.  | Local Civil Rule 67    | Deposit of Funds in Court Registry                                    |
| 3.  | Local Civil Rule 68    | Offers of Judgment and Compromise                                     |
| 4.  | Local Civil Rule 77.1  | Entry of Orders and Judgments; Miscellaneous                          |
| 5.  | Local Civil Rule 79    | Docket Numbers                                                        |
| 6.  | Local Civil Rule 80    | Court Reporters                                                       |
| 7.  | Local Civil Rule 81    | Naturalization Sessions of the Court                                  |
| 8.  | Local Civil Rule 83.1  | Admission of Attorneys                                                |
| 9.  | Local Civil Rule 83.2  | Discipline of Attorneys                                               |
| 10. | Local Civil Rule 83.3  | Security for Costs                                                    |
| 11. | Local Civil Rule 83.5  | Secrecy of Jury Deliberation and Grand Jury Proceedings               |
| 12. | Local Civil Rule 83.6  | Removal of Papers and Exhibits                                        |
| 13. | Local Civil Rule 83.7  | Transfer of Cases to Another District or Upon Remand to a State Court |
| 14. | Local Civil Rule 83.8  | Orders for Extension of Filing Record on Appeal                       |
| 15. | Local Civil Rule 83.9  | Law Student Internship Rules                                          |
| 16. | Local Civil Rule 83.10 | Civil Pro Bono Panel (both redlined and clean copy attached)          |
| 17. | Local Civil Rule 83.12 | Auxiliary Orders                                                      |
| 18. | Civil Appendix         | Form 26(F) Report of Parties' Planning Meeting                        |

The proposed changes have been published on the Court's website and in the Connecticut Law Tribune for comment.

Kindly return your ballot, by fax (212) 857-8680, or by email, by Thursday, December 28, 2017. Thank you.

*Ballot*

Name: \_\_\_\_\_

\_\_\_\_\_ Yes, I approve the proposed revisions to Local Civil Rules

\_\_\_\_\_ No, I do not approve the proposed revisions to Local Civil Rules

\_\_\_\_\_ I request additional information and/or further discussion

## RULE 30

### DEPOSITIONS

~~(Amended April 10, 2017)~~

(Amended December \_\_, 2017)

#### **(a) Attendance**

Depositions on oral examination or on written interrogatories are deemed to constitute private proceedings which the public is not entitled to attend. Any person other than the witness being deposed, the parties to the action, the parent of a minor deponent, counsel for the witness or any party, or any person who has been disclosed by any party as an expert witness in the case shall, at the request of counsel for any party, or the witness, be excluded from the hearing room while the deposition of any person is being taken. Application for an exception to this rule may be made to the presiding Judge.

#### **(b) Appearances**

Any counsel taking or defending a deposition on behalf of a party must have filed an appearance in the case. Subject to any applicable rules concerning the unauthorized practice of law, counsel representing a non-party witness only in deposition need not file an appearance unless otherwise ordered.

#### **(c) Depositions**

Transcripts of depositions and exhibits marked for identification at the depositions shall not be filed with the Clerk, except as required by Local Rule 5(f). When filing deposition transcripts and exhibits in accordance with Local Rule 5(f), if a party seeks to file any of those materials under seal, the party must comply with the provisions of Local Rule 5(e). ~~unless the parties are unable to agree as to who shall retain custody of the transcripts and exhibits. If filed with the Clerk, transcripts of all pre-trial depositions in the case and any exhibits marked upon the taking of any deposition shall be withheld from public inspection by the Clerk, but shall be available to any party for any proper use in the case.~~

#### **(d) Transcripts and Copies of Depositions**

Where a deposition has been taken, any party is entitled to a copy of the recording made of the testimony, whether that recording is done through stenographic, audio or video means. Each party shall bear the expense of his or her own copy of the recording of the deposition testimony.

## RULE 67

### DEPOSIT OF FUNDS IN COURT REGISTRY

~~(Amended December 31, 2013)~~

(Amended December \_\_, 2017)

#### **(a) Order for Deposit in Interest Bearing Account**

Whenever a party seeks a Court order for money to be deposited by the Clerk in an interest-bearing account, the party shall file the order with the Clerk, who shall inspect the proposed order for proper form and content and compliance with this Rule prior to signature by the Judge for whom the order is prepared.

#### **(b) Orders Directing Investment of Funds by Clerk**

Any order obtained by a party or parties in an action that directs the Clerk to invest in an interest-bearing account or instrument funds deposited in the registry of the Court pursuant to 28 U.S.C. § 2041 shall include the following: (1) the amount to be invested; (2) the designation of the type of account or instrument in which the funds shall be invested; and (3) a direction that the Clerk deduct from the income earned on the investment a fee of ten percent (10%), whenever such income becomes available for deduction in the investment so held and without further order of the Court.

#### **(c) Release of Deposited Funds**

Upon final determination of the action or at such other times as may be appropriate, a party or parties may seek a Court order releasing deposited funds, by submitting a proposed order which shall contain the following information: (1) the name, address and taxpayer identification number of any individual(s) or corporation(s) receiving the funds; and (2) the amount of principal and interest to be paid to any individual(s) or corporation(s). Funds cannot be released from the registry account of the Court without a Court order.

#### **(d) Registry Account**

For the purpose of this Rule, the ~~R~~registry ~~a~~Account of the Court is held in the United States Treasury.

## RULE 68

### OFFERS OF JUDGMENT AND COMPROMISE

~~(Amended April 10, 2017)~~

(Amended December 1, 2017)

(a) Offers of judgment made under the Federal Rules of Civil Procedure shall be governed by and comply with Fed. R. Civ. P. 68.

(b) Offers of compromise made under Connecticut state law shall be governed by and comply with Connecticut General Statutes § 52-192a or §§ 52-193 – 195. An offer of compromise shall be filed under seal. A sealed offer shall remain under seal until (a) the filing of a timely acceptance of the offer of compromise, or (b) after trial to allow the eCourt to evaluate the implications of the offer on the judgment to be entered, or (c) when the Clerk retires the record to the Federal Record Center. If an offer of compromise has been timely accepted, the plaintiff (or, where applicable, plaintiff-in-counterclaim) shall file a Notice of Dismissal pursuant to Fed. R. Civ. P. 41 upon receipt of the compromise amount.

## RULE 77.1

### ENTRY OF ORDERS AND JUDGMENTS; MISCELLANEOUS

~~(Amended October 26, 2017)~~

(Amended December \_\_, 2017)

#### **(a) By Entry of Order and Judgments by the Court**

1. A memorandum signed filed by the Judge or Magistrate Judge of the decision of a motion that does not finally determine all claims for relief shall constitute the required order unless such memorandum directs the submission ~~or settlement~~ of an order in more extended form.

2. The notation in the appropriate docket of an "order," as defined in the previous paragraph, shall constitute the entry of the order.

~~3. Unless otherwise directed by the Court, proposed orders, judgments and decrees shall be filed electronically, as required by these rules. Unless the form of order, judgment, or decree is consented to in writing, or unless the Court otherwise directs, seven (7) days' notice of settlement is required. Seven (7) days' notice is required on all counter proposals. Unless adopted by the Court, such proposed orders, judgments or decrees shall not form any part of the record of the action.~~

#### **(b) Entry of Orders and Judgments by the Clerk**

In addition to the other orders that the Clerk is authorized to ~~sign and enter~~ sign, enter, or both pursuant to these Local Rules or the Federal Rules of Civil Procedure, the Clerk is authorized in the absence of contrary instructions issued by a Judge with respect to any case assigned to such Judge, to sign and enter the following orders and judgments without further direction of the Court:

1. Consent judgments for the payment of money; orders on consent dismissing actions, withdrawing stipulations, exonerating sureties and permitting visiting lawyers to appear; orders setting aside defaults entered under Fed. R. Civ. P. 55(a); and orders entered pursuant to Fed. R. Civ. P. 4.1(a) specially appointing persons to serve process other than a summons or subpoena.

~~2. Orders on consent for the substitution of attorneys in cases not assigned for trial.~~

~~3.~~ Subject to the provisions of Fed. R. Civ. P. 54(b) and 58, judgments upon a general verdict of a jury, or upon a decision by the Court ~~unless the Court otherwise directs~~. Every judgment shall be set forth on a separate document and shall become effective only when its substance is entered in the civil docket pursuant to Fed. R. Civ. P. 79(a).

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### **(c) Legal Holidays**

For the purpose of ~~Rules Fed. R. Civ. P. 6 and 77.1(c), Fed.R.Civ.P.,~~ and for all other purposes, the following are hereby designated Legal Holidays for the United States District Court for the District of Connecticut:

New Year's Day (January 1), Martin Luther King, Jr. Day (third Monday in January), Presidents' Day (third Monday in February), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (first Monday in September), Columbus Day (second Monday in October), Veterans' Day (November 11), Thanksgiving Day (fourth Thursday in November), Christmas Day (December 25); or whenever any such day falls on Sunday, the Monday next following such day; or whenever any such day falls on Saturday, the Friday preceding such day; and any other day appointed as a holiday by the President or the Congress of the United States.

When a particular holiday is celebrated on different days by the Federal government and the State of Connecticut, then the day designated by the Federal government, and not the day designated by the State of Connecticut, shall be observed as a holiday by the United States District Court for the District of Connecticut.

### **(d) District Court Library**

~~The United States District Court Library is established for use by Court personnel. The library is available to attorneys who are admitted to practice in the United States District Court only on the day they appear before the Court on trial, to argue motions, or to participate in chambers conferences, and only for emergency research.~~

The United States District Court Libraries are primarily for use by Court personnel. Attorneys and self-represented litigants are permitted to use the libraries on days when they have matters scheduled in the courthouse. Books may be used within the library. Wi-fi is available. Use of library computers, printers, and copy machines is limited to court personnel only. Any Judge of this Court shall have discretion to suspend the access of any person to the library for inappropriate behavior or when the needs of the Court so require.

### **(e) Order or Judgment Mandate of Appellate Court**

Any order or judgment mandate of an appellate Court, when ~~filed in the office of~~received by the Clerk of the District Court, shall be entered on the docket and shall automatically become the order or judgment of the District Court ~~and shall be entered as such by the Clerk~~ without further order, except that if such order or judgment of the appellate court requires further proceedings in the District Court other than a new trial, ~~an order shall be entered making the order or judgment of the appellate court the order or judgment of the District Court.~~the Judge to whom the case is assigned shall determine what, if any, further order(s) may be necessary.



## RULE 79

### DOCKET NUMBERS

(Amended December \_\_, 2017)

(a) Complaint, Notice of Removal

Upon the filing of a civil complaint (other than a grievance complaint governed by Local Rule 83.2(c)) or notice of removal, a case will be assigned a docket number, consisting of the following:

1. the prefix 3;
2. the last two digits of the year of filing;
3. a designation of "CV" for civil cases and "CR" for criminal cases;
4. the number of the case (with the first case of each calendar year designated as 00001); and
5. the initials of the Judge to whom the case has been assigned.

(b) Motion to Compel, to Quash, or for Protective Order

Upon the filing of a motion to compel, to quash, or for protective order under Fed. R. Civ. P. 45 with respect to an action pending in another district, the matter will be assigned a docket number in accordance with the procedure in Local Rule 79(a), but using the designation "MC" in lieu of "CV."

(c) The Clerk of the District Court may develop and use other case designations as may be required or appropriate.

## RULE 80

### **STENOGRAPHER**

### **COURT REPORTERS**

(Amended December 1, 2017)

#### **(a) Reporter's Fees**

An official Court reporter shall be entitled to compensation for transcript at rates which ~~may~~ be- are fixed from time to time by ~~order of~~ the District Judges Judicial Conference of the United States. Said rates shall be entered in an Order of the Court and shall be posted on the Court's website and available in the Clerk's Office, along with any other Auxiliary Orders which are adopted pursuant to Local Civil Rule 83.12.

## RULE 81

### ~~PROCEEDINGS TO WHICH THE RULES APPLY~~

### NATURALIZATION SESSIONS OF THE COURT

(Amended December \_\_, 2017)

#### ~~(a) Naturalization Sessions of Court~~

The petitions of ~~persons~~aliens to become citizens of the United States shall be heard from time to time at the various seats of Court, as the Chief Judge shall direct.

#### ~~(b) Dismissal of Petition or Motion~~

~~Whenever a petition or motion filed pursuant to this Rule is dismissed as provided for in Rule 8 of these rules, the Clerk shall return the petition or motion to the petitioner along with a brief statement of the defect giving rise to the dismissal.~~

## RULE 83.1

### ADMISSION OF ATTORNEYS

~~(Amended November 23, 2016)~~

~~(Amended December \_\_, 2017)~~

#### (a) Qualifications

Any attorney of the Bar of the State of Connecticut or of the bar of any United States District Court, whose professional character is good, may be admitted to practice in this Court upon a Petition for Admission, in form and substance prescribed by subsection (b) of this Rule, after paying the admission fee, taking the proper oath, and signing the Roll of Attorneys Admitted to the Bar of the United States District Court for the District of Connecticut.

#### (b) Procedure for Admission

An attorney seeking admission to the Bar of this Court shall file with the Clerk of this Court a written Petition for Admission in the form prescribed by the Judges of this Court. A certificate of good standing from all of the petitioner's state bar(s) must be included with the Petition. Such petition shall also be accompanied by a sworn affidavit setting forth the following information:

(i) the petitioner's residence and office address, and office telephone number, fax number and email address;

(ii) a list of courts to which the petitioner has been admitted to practice;

(iii) the petitioner's legal training and experience at the bar;

(iv) the petitioner's representation that he or she has studied carefully the jurisdictional provisions of Title 28 U.S.C., the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, and the Local Rules of this Court;

(v) the petitioner has never been convicted of any crime, other than minor traffic offenses;

(vi) the petitioner has no pending disciplinary complaint(s) as to which a finding has been made that such complaint(s) should proceed to a hearing; and

(vii) the petitioner has not been denied admission to, been disciplined by, resigned from, surrendered ~~his-a~~ license to practice before, or withdrawn an application for admission to practice while facing a disciplinary complaint before, this Court or any other court.

If the petitioner cannot so state as to (b)(v), (vi) and (vii), then the petitioner must describe in full the circumstances of any such conviction, complaint, denial, discipline, resignation, surrender, or withdrawal, including the reasons therefor, any penalty, sanction or other discipline imposed, whether such discipline was satisfied, and whether the attorney is currently in good

standing in such jurisdiction(s). The Judges of this District or their designee shall make such inquiry as ~~it deems~~deemed appropriate. It shall take a majority vote of the Judges to admit such petitioner to this Bar. For the purpose of this Rule, "minor traffic offenses" shall mean motor vehicle violations which are neither felonies nor misdemeanors.

The petition and affidavit of the petitioner shall be accompanied by the sworn affidavits of two sponsoring members of the Bar of this Court. The sponsoring attorney's affidavits must attest:

- (i) where and when the sponsor was admitted to practice in this Court,
- (ii) that the sponsor has known the petitioner in a professional legal capacity for at least six months,
- (iii) that the petitioner has good professional character,
- (iv) that the petitioner is experienced at the bar,
- (v) how long and under what circumstances the sponsor has known the petitioner's professional character and experience as an attorney, and
- (vi) that the sponsor knows of no fact which would call into question the integrity or character of the petitioner.

The Clerk will examine the petition and affidavits and, if found to be in compliance with this Rule, the petition for admission will be presented to the Court at a time and place selected by the Clerk.

When a hearing is held on a petition, a member of the Bar of this District shall move the admission of the petitioner. The petitioner shall take an oath in open Court to support the Constitution and laws of the United States of America, and to discharge faithfully his duties as an attorney according to the law and the recognized standards of ethics of the profession. Under the direction of the Clerk, the newly admitted attorney shall sign the Roll of Attorneys and pay the fee required by law. Additionally, he or she shall pay a fee of \$44.00, which shall be placed by the Clerk in a fund to be used for expenses incurred pursuant to Rule 83.2 of these Local Rules of Civil Procedure.

### **(c) Local Office**

(1) Unless otherwise ordered by the Court for good cause shown, no visiting lawyer admitted specially under Rule 83.1(d) not having an office for the transaction of business in person within the District of Connecticut shall appear as attorney of record in any cause without specifying on the record a member of the bar of this Court having an office within the District of Connecticut, upon whom service of all papers shall also be made. Because the use of local counsel often enhances cooperation between counsel and thereby reduces overall litigation expense to the parties, and otherwise facilitates the business of the Court, the showing of good cause required by this subsection is not satisfied merely by a statement that the use of local counsel will impose additional expense on the parties. All communications sent by the Court to

the local office so designated shall have the same force and effect as if said communications were sent to the out of state office of a visiting lawyer who has been admitted pursuant to Rule 83.1(d), even where the sponsoring lawyer has been excused from attendance in Court pursuant to Rule 83.1(d)(2) of these Local Rules of Civil Procedure.

(2) Any self-represented party ~~appearing pro se~~ must give provide an address ~~within the District of Connecticut~~ where service can be made upon ~~him or her in the same manner as service is made on an attorneys~~ such party.

(3) A member of the bar of this Court who changes his or her office address shall notify the Clerk of such change of address within 30 days of such change, ~~and shall at the same time provide the Clerk with a list of all pending cases in which the attorney has filed an appearance.~~

#### **(d) Visiting Attorneys**

(1) Attorneys not members of the Bar of this Court, but who are members in good standing of the bar of another Federal or State Court, may be permitted to represent clients in criminal, civil and miscellaneous proceedings in this Court on written motion by a member of the Bar of this Court. The motion shall be accompanied by an affidavit, duly sworn and executed by the proposed visiting attorney:

(a) stating the proposed visiting attorney's office address, telephone number, fax number, and e-mail address;

(b) identifying the bar of each court of which said attorney is and has ever been a member, and ~~his or her~~ the corresponding bar identification number(s), or if no such numbers have been assigned, so stating;

(c) stating that said attorney:

(i) has no pending disciplinary complaints as to which a finding has been made that such complaint should proceed to a hearing; and

(ii) has not been denied admission to, been disciplined by, resigned from, surrendered ~~his or her~~ a license to practice before, or withdrawn an application for admission to practice ~~before this Court or any other court~~, while facing a disciplinary complaint before, this Court or any other court; or, if the visiting attorney cannot so state as to subsections (c)(i) and (c)(ii), then the visiting attorney must describe in full the circumstances of any such complaint, denial, discipline, resignation, surrender, or withdrawal, including the reasons therefor, any penalty, sanction or other discipline imposed, whether such discipline was satisfied, and whether the attorney is currently in good standing in such jurisdiction(s);

(d) stating that said attorney has fully reviewed and is familiar with the Federal Rules of Civil Procedure (for an attorney seeking admission in a civil case) or Criminal Procedure (for an attorney seeking admission in a criminal case), the applicable Local Rules of ~~The the~~ United States District Court for the District of Connecticut, and the Connecticut Rules of Professional Conduct; and

(e) designating the sponsoring attorney as his or her agent for service of process and the District of Connecticut as the forum for the resolution of any dispute arising out of said attorney's admission under this Local Rule 81(d).

(2) Said motion shall be made promptly and may be denied if granting the motion will require modification of a scheduling order entered pursuant to Fed. R. Civ. P. 16(b) ~~or the deadlines established by the Standing Order on Scheduling in Civil Cases~~. If the motion is granted, the sponsoring attorney may apply to be excused from attendance in Court and participation in other proceedings before the Court. A sponsoring attorney who is excused is not thereby relieved of any other obligation of an appearing attorney. A visiting attorney admitted pursuant to this Local Rule may participate in depositions, Rule 26(f) conferences, and other conferences with other parties not involving Court personnel without the presence of local counsel.

(3) Each such motion filed on behalf of an attorney shall be accompanied by payment to the Clerk of this Court of a fee of \$75.00, which shall be placed in a fund by the Clerk to be used for expenses incurred pursuant to Rule 83.2 of these Local Rules.

(4) Upon admission under this rule, an attorney shall promptly file with the Clerk of the Court a certificate of good standing from the court of the state in which he or she has his or her primary office. Such certificate of good standing shall be filed no later than 60 days after the date of admission and shall be dated no more than 60 days before the date of admission. Failure to file such certificate will result in the automatic revocation of the visiting attorney status of said attorney, absent an order of the Court. Furthermore, upon revocation of a visiting attorney's status in one case, the Clerk of the Court shall examine the Court's Docket and revoke said attorney's visiting attorney status in all cases in which said attorney has filed an appearance.

## RULE 83.2

### DISCIPLINE OF ATTORNEYS

~~(Amended December 31, 2013)~~

~~(Amended April 1, 2016)~~

(Amended December \_\_, 2017)

#### (a) Professional Ethics

1. ~~Other than the specific Rules enumerated~~Except as provided in Rule 83.2(a)2 of these Local Rules, this Court recognizes the authority of the “Rules of Professional Conduct,” as approved by the Judges of the Connecticut Superior Court as expressing the standards of professional conduct expected of lawyers practicing in the District of Connecticut. Any changes made by the Judges of the Connecticut Superior Court to the Rules of Professional Conduct shall ~~not be binding~~apply in the District of Connecticut, on the date they become effective in the Connecticut Superior Court unless such changes are expressly ~~adopted~~rejected by order of the District Judges. The Clerk shall report to the Judges any such changes to the Connecticut Rules of Professional Conduct. The interpretation of said Rules of Professional ~~Responsibility~~Conduct by any authority other than the United States Supreme Court, the United States Court of Appeals for the Second Circuit and the United States District Court for the District of Connecticut shall not be binding ~~on~~in disciplinary proceedings initiated in the United States District Court for the District of Connecticut.

2. ~~Rule 3.6 and 3.7(b)~~This Court does not adopt the provisions of the Rules of Professional Conduct ~~are not adopted as rules governing professional conduct in the District of Connecticut~~1.2 and 1.5 concerning limited representations and limited appearances. The ethical standards governing public statements by counsel in a criminal case are set forth in Local Criminal Rule 57. The ethical standards governing participation as counsel in a case where either the attorney or another attorney in his or her firm may be a witness for both civil and criminal cases are set forth in Local Civil Rule 83.13.

3. The following Local Civil Rules shall apply in grievance proceedings: Rule 83.1 (Admission of Attorneys), Rule 1 (Definitions), Rule 10 (Preparation of Pleadings), Rule 5(b) (Appearance), Rule 5(c) (Proof of Service), Rule 5(~~g~~h) (Service ~~by Facsimile Copy~~in Manually Filed Cases), Rule 7(a) (Motion Practice Procedures), ~~and~~ Rule 7(b) (Motions for Extensions of Time.), and Rule 83.10 (Civil Pro Bono Panel).

#### (b) Grievance Committee

1. The Judges of this Court shall appoint a Grievance Committee of the United States District Court for the District of Connecticut consisting of twelve (12) members of the bar of this



Court. One member shall be appointed by the judges as the chairperson of the committee for a term of three years.

2. Members shall be appointed for a term of three (3) years, renewable once, for an additional term of three (3) years. If a member is appointed chairperson during the second term of three years, that member may serve the full three-year term of chairperson, even if his or her total tenure on the committee would thereby exceed six years. In the event that a vacancy arises before the end of a term, a member of the bar of this Court shall be appointed by the Judges of this Court to fill the vacancy for the balance of the term. Anyone filling such a vacancy is eligible for reappointment to a full three-year term. Five (5) members of the Grievance Committee shall constitute a quorum and any action taken by the Grievance Committee shall be by a majority vote of those members present and voting.

3. The judges shall appoint three (3) members of the bar of this Court to serve as Counsel to the Grievance Committee. Assignment of cases to each counsel shall be made on the basis of the assigned seat of court, according to administrative procedures approved by the Clerk.

4. The Grievance Committee and Counsel to the Grievance Committee shall have the use of the staff of the Clerk for clerical and record-keeping assistance, shall have the power to issue subpoenas to compel witnesses to testify and produce documents at proceedings, and may incur such expenses as shall be approved by the Chief Judge of this Court. Compulsory process shall be available to the attorney who is the subject of the complaint.

### **(c) Proceedings Upon Complaint**

1. Any person may file with the Clerk of the Court a written verified complaint alleging attorney misconduct relating to any matter relevant to an attorney's qualification to practice before the court. Each person filing a complaint shall file sufficient copies of the complaint to supply an original for the Court, and one copy for each attorney who is the subject of the complaint, ~~and one copy for each member of the Grievance Committee~~. The Clerk shall assign a docket number, consisting of the initials "GP," the last two digits of the year of filing, the number of the case (with the first case of each year being designated as number 1), and the initials of the Judge to whom the case has been assigned. Each complaint shall be assigned to a Judge on a random District-wide basis. Any complaint which arises out of conduct witnessed by a particular Judge of this Court shall not be assigned to that Judge. The personnel of the Clerk's office shall not reveal to any person other than a Judge or the Clerk of this Court the order of assignment of such complaints. The Clerk shall forward a copy of the complaint to the Grievance Committee and counsel assigned to the matter. The complaint, and the fact of filing the complaint, shall be considered sealed and shall not be a record open to the public.

2. The Grievance Committee, upon appropriate notice, shall conduct such hearings as it deems appropriate under rules for fair procedure. Such hearings shall be private unless the attorney complained against requests a public proceeding. The Grievance Committee shall decide whether to recommend that the complaint be dismissed or that the attorney complained against be disciplined (1) by private or public censure, (2) by suspension from the practice of law for a fixed period of time, (3) by indefinite suspension, or (4) by disbarment.

3. When any misconduct or allegation of misconduct which would warrant discipline of any attorney admitted to practice before this Court comes to the attention of any Judge of this Court, the Judge may refer the matter to the Grievance Committee for the initiation of a presentment or the formulation of such other recommendation as may be appropriate. Nothing in this Rule 83.2 shall be interpreted to limit the inherent authority of the Judge to enforce the standards of professional conduct by way of appropriate proceedings other than by referral to the Grievance Committee.

**(d) Recommendation of Grievance Committee**

1. The Grievance Committee shall make its recommendation to the ~~court~~Court within 180 days of receipt of the complaint or referral for action. If additional time is needed, Counsel to the Committee shall notify the Clerk and up to an additional 180 days shall be allowed.

2. If the recommendation of the Grievance Committee is to dismiss the complaint, the recommendation shall be filed with the ~~court~~Court. The Committee may make a dismissal recommendation conditioned on the satisfaction by the respondent of conditions determined by the Committee to be appropriate under the circumstances. The Judge to whom the complaint has been assigned may hold further hearings on the recommendation to dismiss or may dismiss the complaint on the written record presented by the Committee.

3. If the Judge decides not to dismiss the complaint, an Order to Show Cause shall be issued by the ~~court~~Court directing the attorney complained against to show cause why disciplinary action should not be taken.

4. If the Grievance Committee's recommendation is for discipline, the Grievance Committee shall file its recommendation in the form of a presentment, seeking an order to show cause why the attorney complained against should not have disciplinary action taken against him or her as prayed for in the presentment. The Committee may recommend discipline conditioned on the satisfaction by the respondent of conditions determined by the Committee to be appropriate under the circumstances.

5. Within thirty (30) days of service of the order to show cause issued pursuant to Local Rule 83.2(d)3 or a presentment issued pursuant to Local Rule 83.2(d)4, the attorney complained against shall file a written answer. Thereafter, a hearing on the issue shall be held before the assigned Judge. At the hearing, the attorney complained against shall have a right to be represented by counsel, shall have the right to confront and cross-examine witnesses, and shall have the right to offer the testimony of witnesses and other evidence on ~~his or her~~the attorney's behalf. Discipline shall not be imposed unless the Court finds, by clear and convincing evidence, that the attorney complained against should be disciplined. Unless requested to be a public proceeding by the attorney complained against, all proceedings shall be in private and maintained under seal unless and until discipline is ordered. Absent the filing of an answer as provided above, a hearing shall be held on the limited question of appropriate discipline.

6. The attorney complained against may choose to waive presentment and hearing and to agree upon a disposition with the Grievance Committee. In such event, the proposed,

stipulated disposition shall be presented to the Court, with a motion seeking the Court's approval. Should the Court deny the motion, an Order to Show Cause shall be issued by the Court directing the attorney complained against to show cause why disciplinary action should not be taken.

7. Upon the imposition of discipline, other than a private reprimand, the ~~court~~Court file shall be unsealed and made a matter of public record. In that event, a notation shall be made on the attorney's admission record indicating the date and nature of the discipline imposed.

#### **(e) Attorneys Convicted of Crimes**

1. The Grievance Committee shall take such action as is necessary to keep informed of convictions of "serious crimes," as defined in subparagraph 4, of attorneys admitted to practice before this Court and cause certified copies of such convictions to be filed with this Court.

2. Upon the filing with this Court of a certified copy of a judgment of conviction or proof of change of plea or jury verdict of guilty prior to sentencing, demonstrating that any attorney admitted to practice before the Court has been convicted in any Court of the United States, or the District of Columbia, or of any state, territory, commonwealth or possession of the United States or any foreign country, of a serious crime, the Court shall enter an order immediately suspending that attorney from practice before this Court, whether the conviction resulted from a plea of guilty or nolo contendere or from a verdict after trial or otherwise, and regardless of the pendency of any appeal. A copy of such order shall immediately be served upon the attorney. Upon good cause shown, the Court may set aside such order when it is in the interest of justice to do so. An attorney suspended under the provisions of this subparagraph 2 shall be reinstated immediately upon filing of a certificate demonstrating that the underlying conviction of a serious crime has been reversed, but reinstatement will not terminate any disciplinary proceedings against the attorney brought pursuant to this Local Rule 83.2.

3. Upon the filing of a certified copy of a judgment of conviction or proof of change of plea or jury verdict of guilty prior to sentencing, demonstrating that any attorney admitted to practice before the Court has been convicted of a serious crime, the matter shall automatically be referred to counsel for the Grievance Committee for the institution of a presentment before this Court, in the manner specified in Local Rule 83.2(d), in which the sole issue to be determined shall be the extent of the final discipline to be imposed as the result of the conduct resulting in the conviction, provided that a disciplinary proceeding so instituted shall not be brought to final hearing until all direct appeals from the conviction are concluded.

4. The term "serious crime" shall include any felony and any lesser crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the judgment was entered, involves false swearing, misrepresentation, fraud, moral turpitude, willful failure to file tax returns or currency transaction reports, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit, or the aiding and abetting the commission of any of the foregoing crimes.

5. A certified copy of a judgment of conviction of an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against that attorney based upon the conviction.

**(f) Discipline or Resignation in Other Courts**

1. Any attorney ~~receiving disciplinary action against him or her~~disciplined by order of the Courts of Connecticut or any other state or federal Court or any attorney resigning from the bar of the State of Connecticut or any other state or federal Court while disciplinary proceedings are pending, shall promptly inform the Clerk of this Court of such action.

2. Upon ~~the filing of such~~receiving information ~~pursuant to this~~described in paragraph (f)1 ~~above or such information having otherwise come to the attention of this Court or of the Grievance Committee~~, counsel for the Grievance Committee shall institute a presentment, in the manner specified in paragraph (d) of this Local Rule 83.2, petitioning the Court to impose the identical discipline upon or require the resignation of the attorney receiving such disciplinary action or so resigning. After hearing, the Court shall require the resignation of the attorney or shall impose the identical discipline against the attorney unless the Court finds that, on the face of the record upon which the discipline in another jurisdiction is predicated, it clearly appears:

- a. that the procedure was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or
- b. that there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that the Court could not, consistent with its duty, accept as final the discipline imposed; or
- c. that the imposition of the same discipline by the Court would result in grave injustice; or
- d. that the misconduct established is deemed by the Court to warrant substantially different discipline.

Where the Court determines that any such element exists, it shall enter such other order as it deems appropriate.

3. Upon good cause shown, the Court may set aside such order when it is in the interest of justice to do so. An attorney suspended under the provisions of subparagraph (f)2 shall be reinstated immediately upon filing a certificate demonstrating that the disciplinary action in the other jurisdiction has been reversed.

**(g) Mental Disability or Incapacity**

1. In the event an attorney is by a Court of competent jurisdiction (1) declared to be incompetent ~~of managing his or her~~to manage the attorney's affairs, or (2) committed involuntarily to a mental hospital for drug dependency, mental illness, or the addictive or excessive use of alcohol, ~~the this~~ Court shall issue an order to show cause, requiring the attorney to show cause why ~~he or she~~the attorney should not be suspended immediately from practicing law in this Court. The matter shall be ~~handled by~~referred to the Grievance Committee, which shall arrange for a copy of such order to be served, in such manner as the

Court shall direct, upon such attorney, ~~his or her~~the attorney's conservator if any, and the director of any institution in which ~~he or she~~the attorney may reside. If, after hearing, the Court concludes that the attorney is incapacitated from continuing to practice law, it shall enter an order suspending ~~him or her~~the attorney on the ground of such disability until further order of the Court.

2. Whenever the Grievance Committee shall have reason to believe that an attorney is incapacitated from practicing in this Court by reason of mental infirmity or illness or because of drug dependency or addiction to alcohol, it shall file a presentment in accordance with paragraph (d) of this Local Rule 83.2~~(g)~~. Whenever a Judge of this Court has reason to believe that an attorney is similarly incapacitated or otherwise impaired, the Judge may refer the matter to the Grievance Committee for the formulation of such recommendation as may be appropriate, including the initiation of a presentment or such other orders as it deems appropriate. The Grievance Committee may take or direct such action as it deems necessary or proper in order to determine whether such attorney is incapacitated or otherwise impaired, including examination of the attorney by such qualified medical expert or experts as the Grievance Committee shall designate. If, after hearing, the Court concludes that the attorney is incapacitated or otherwise impaired from continuing to practice law, it shall enter an order suspending ~~him or her~~the attorney on the ground of such disability until further order of the Court.

3. In the event there are disciplinary proceedings pending against an attorney who is suspended under this rule, those proceedings shall be held in abeyance for as long as the suspension under this rule remains in effect.

#### **(h) Resignation**

Any attorney may resign from the bar of this Court by submitting a resignation, in writing, properly witnessed and acknowledged to be the attorney's free act and deed, to the Clerk of this Court, which shall be effective upon filing. However, such resignation shall not affect any pending disciplinary proceedings pursuant to this Local Rule 83.2, unless the attorney's resignation certifies that the attorney waives the privilege of applying for readmission to the bar at any future time, in which case disciplinary proceedings shall be terminated.

#### **(i) Reinstatement**

1. An attorney suspended for a fixed period of time shall be automatically reinstated at the end of the period of suspension upon ~~his or her~~ filing (1) an affidavit with the Court demonstrating compliance with the provisions of the suspension order and (2) a certificate of good standing showing the attorney is a member in good standing in the Superior Court for the State of Connecticut or other state court.

2. Petitions for reinstatement by a disbarred or suspended attorney whose period of suspension has not expired shall be filed with the Clerk. ~~Upon the filing of the~~Where practicable, such petition, ~~it~~ shall be assigned to the ~~judge previously assigned~~Judge to whom the original grievance proceeding was assigned. Otherwise, it shall be randomly assigned to another ~~judge~~Judge of the ~~district~~District. The petition shall automatically be referred to

counsel for the Grievance Committee, who shall give public notice by ~~newspaper~~ publication in a newspaper of such petition, general circulation in the town where the attorney has or most recently had a principal office, and by publication on the District Court website, allowing 30 days for comment. Counsel shall provide notice to the complainant that a petition for reinstatement has been filed.

3. After the close of the public comment period, the Grievance Committee shall promptly schedule a hearing for the purpose of determining whether or not the petitioner should be reinstated. The Grievance Committee shall make a recommendation to the Court, within thirty (30) days of completing its independent investigation, as to the fitness of the petitioner to be reinstated.

4. Within thirty (30) days of receiving the Committee's recommendation, the Judge assigned to the matter shall schedule a hearing at which the petitioner shall have the burden of demonstrating by clear and convincing evidence that ~~he or she~~the petitioner has the moral qualifications, competency and learning in the law required for admission to practice law before this Court and that ~~his or her~~the petitioner's resumption of the practice of law will not be detrimental to the integrity and standing of the bar or to the administration of justice, or injurious to the public interest.

5. In all proceedings upon a petition for reinstatement, counsel for the Grievance Committee may conduct cross-examination of the witnesses of the petitioner attorney and may file objections to the petition.

6. If the petitioner is found unfit to resume the practice of law, the petition shall be denied. If the petitioner is found fit to resume the practice of law, the judge shall reinstate ~~him or her~~the petitioner, provided that the judge may make reinstatement conditional upon (1) the payment of all or part of the costs of the proceedings, (2) the making of partial or complete restitution to parties harmed by the conduct of the petitioner which led to the suspension or disbarment, ~~or~~ (3) the furnishing of proof of competency and learning in the law ~~if the petitioner has been suspended or disbarred for five years or one or more areas of the law or of law practice management, (4) the petitioner's taking and passing the Multistate Professional Responsibility Examination, and/or (5), which proof may include~~ certification by the bar examiners of a state or other jurisdiction of the attorney's successful completion of an examination for admission to practice subsequent to the date of suspension or disbarment.

7. Absent exceptional circumstances, no petition for reinstatement under this paragraph shall be filed within one year following an adverse judgment upon a petition for reinstatement filed by or on behalf of the same person.

## **RULE 83.3**

### **SECURITY FOR COSTS**

#### **(a) Security for Costs**

Any time after the commencement of an action, the defendants, or the plaintiffs upon the filing of a counterclaim, are entitled on request to the Clerk to an order to be entered by the Clerk, as of course, for a cash deposit or bond with recognized corporate surety in the sum of \$500.00 as security for costs, to be given within thirty days from the entry of such order. Parties who are jointly represented by the same counsel will be deemed to be one party for the purposes of this \$500 limitation. Additional, substituted, or reduced security, or a justification of financial responsibility by any surety, may be ordered by the Court at any time during the pendency of the action for good cause found by the Court. Noncompliance with an order entered hereunder may be grounds for summary dismissal or default upon application by a party and notice to the non-complying party.

#### **(b) Modification and Waiver**

Upon good cause shown, the Court may modify or waive the requirements of this Rule.

## RULE 83.5

### SECURITY OF JURY DELIBERATIONS AND GRAND JURY PROCEEDINGS

(Amended December \_\_, 2017)

#### 1. Trial Jurors

(a) No person, other than the Court or Court personnel, shall contact or communicate with, directly or indirectly, a juror, potential juror or excused juror, or any relative, friend or associate of any such juror, during jury selection or trial, concerning the subject matter of the trial or the juror's participation in the trial, except with the permission of and under the supervision of the Court.

(b) Jurors have no obligation to speak to any person about any case and may refuse all interviews or requests to discuss the case. Jurors may only speak or write about their own participation in the trial. Jurors may not discuss the deliberations of the jury, votes of the jury, or the actions or comments of any other juror. However, jurors shall report to the Court any extraneous prejudicial information improperly brought to the jury's attention, any outside influence improperly brought to bear upon any juror, or whether the verdict reported was the result of a clerical mistake.

(c) ~~No~~ Unless explicitly authorized by the Court, no party, and no attorney or person acting on behalf of a party or attorney, shall question a juror concerning the deliberations of the jury, votes of the jury or the actions or comments of any other juror.

(d) No person may contact, communicate with or interview any juror in any manner which subjects the juror to harassment, misrepresentation, duress or coercion.

#### 2. Juror Information

The Clerk shall make available to counsel and ~~pro se~~ self-represented parties participating in jury selection the responses to juror questionnaires of those prospective jurors participating in jury selection. Upon request of counsel or a self-represented party, the Court may order the Clerk to make available to counsel and a self-represented party participating in jury selection the list of potential jurors summoned for the case. Other individuals may request such information in accordance with the District's Jury Plan.

#### 3. Grand Jurors

No person, other than those authorized under Fed. R. Crim. P. 6 or Court personnel, shall contact or communicate with, directly or indirectly, a grand juror, potential grand juror, or excused grand juror at any time concerning the subject matter of the grand jury proceedings or the juror's participation in the grand jury proceedings. Grand jurors shall also comply with Fed. R. Crim. P. 6.



#### **4. Violations**

A violation of this rule may be treated as a contempt of Court. The Court shall have continuing supervision over communications with jurors, even after a trial has been completed.

## RULE 83.6

### REMOVAL OF PAPERS AND EXHIBITS

(Amended December \_\_, 2017)

#### **(a) Withdrawal of Pleadings, Papers and Exhibits**

After being filed in Court, pleadings or other papers may be withdrawn only upon order of the Court. Exhibits received in evidence may be withdrawn by stipulation of the parties or by order of the Court.

#### **(b) Pre-marked Exhibits and Exhibit Lists**

Prior to the commencement of trial, ~~counsel or pro se~~the parties shall pre-mark all exhibits to be offered at hearing or trial. ~~Counsel or pro se~~The parties shall prepare and submit to the courtroom deputy and the Judge a list of their exhibits, as pre-marked.

#### **(c) Custody of Exhibits After Trial**

Except in proceedings before a special master, and unless the Court otherwise directs, exhibits shall not be filed with the clerk, but shall be retained in the custody of ~~counsel or pro se~~the parties who produce them in court. ~~Counsel or pro se~~The parties shall retain these exhibits until final determination of the action, including the date when the mandate of the final reviewing court has been filed or until the time for appeal has expired.

#### ~~**(d) Exhibits on Appeal**~~

~~In the case of an appeal or other review by an appellate court, the parties are encouraged to agree with respect to a designation of exhibits to be included in the record on appeal. In the absence of such an agreement, a party, upon the request of any other party, shall make the original exhibits available to the requesting party, or furnish copies, as may be necessary to enable the requesting party to designate or prepare the record on appeal. All exhibits designated as part of the record on appeal, except large or bulky exhibits, shall be filed with the Clerk, who shall transmit them with the record on appeal to the Clerk of the Court of Appeals. Exhibits not so designated shall remain in the custody of the respective attorneys or pro se parties who shall have the responsibility of forwarding same to the Clerk of the Court of Appeals upon request. Large or bulky exhibits designated as part of the record on appeal shall remain in the custody of counsel or the pro se party producing them and shall be responsible for their transportation to the appellate court.~~

#### ~~**(e)**~~**(d)** **Disposition of Exhibits in the Custody of the Clerk**

The offering party shall make arrangements for the return of those exhibits remaining with the Clerk within ninety days after final determination of the action. Exhibits not claimed may be destroyed by the Clerk, without notice.

## RULE 83.7

### TRANSFER OF CASES TO ANOTHER DISTRICT OR UPON REMAND TO A STATE COURT

(Amended December 1, 2017)

In a case ordered transferred to another District Court or remanded to the appropriate State Court, the clerk ~~shall mail~~will, unless otherwise ordered; transmit, on the ~~fourteenth~~(14th)eleventh day following the order of transfer or remand, to the Court to which the case is transferred or remanded: (1) ~~a certified copy of~~ the Court's opinion directing such action, and its order thereon, and ~~of~~ the docket entries, and (2) ~~the original of~~ all pleadings and other papers on file in the case, provided that no timely motion for reconsideration of the order of transfer or remand has been filed pursuant to Local Civil Rule 7(c). Where a timely motion for reconsideration has been filed, the Clerk ~~shall will~~ delay ~~mailing-transmitting~~ the file until the Court has ruled on the motion for reconsideration and will thereafter take such action as is consistent with the ruling on the motion for reconsideration.

## **RULE 83.8**

### **~~ORDERS FOR EXTENSION OF FILING RECORD ON APPEAL~~**

#### **RESERVED**

~~An extension of the forty (40) day period within which to transmit the record to the United States Court of Appeals, pursuant to Rule 11(d) of the Rules of Appellate Procedure, shall be granted only upon good cause shown and only if such request for extension is made within the time originally prescribed or within an extension previously granted. The District Court is without authority to extend the time to a day more than ninety (90) days from the date of filing the first notice of appeal. Each application for an extension of time under this Rule must show the date on which the notice of appeal was filed and the date when the last extension, if any, will expire. If the application is based upon delay in obtaining the reporter's transcript, it shall state the date on which the transcript was ordered~~

## RULE 83.9

### LAW STUDENT INTERNSHIP RULES

(Amended December \_\_, 2017)

#### (a) Appearance of Law Student Intern

An eligible law student intern may, with the Court's approval, under supervision by a member of the bar, appear on behalf of any person who has consented in writing to the intern's appearance.

#### (b) Requirements of Supervising Attorney

The attorney who supervises an intern shall:

1. be a member of the bar of the United States District Court for the District of Connecticut;
2. assume personal professional responsibility for the student's work;
3. assist the student to the extent necessary;
4. appear with the student in all proceedings before the Court unless the attorney's presence is waived by the Court;
5. indicate consent in writing ~~his or her consent~~ to supervise the intern under this Rule.

#### (c) Requirements of Law Student Intern

In order to appear pursuant to this Rule, the law student intern shall:

1. be enrolled in good standing in a law school approved by the American Bar Association;
2. have completed legal studies amounting to at least two semesters of credit, or the equivalent if the school is on some basis other than a semester basis;
3. be introduced to the Court ~~in which he or she is appearing~~ by the supervising attorney;
4. not be employed or compensated by a client. This Rule shall not prevent an attorney, legal aid bureau, law school, public defender, or other agency from compensating a law student intern.

#### (d) Privileges of Law Student Intern

The law student intern, supervised in accordance with this Rule, may:

1. appear as counsel in Court or at other proceedings when the consents of the client and supervising attorney referred to in subdivisions (a) and (b) of this Rule have been filed, and the Court has approved the intern's request to appear; and

2. prepare and sign motions, petitions, answers, briefs and other documents in connection with any matter in which the law student intern has met the conditions of Rule 83.9(c). Each such document must also be signed by the supervising attorney.

## RULE 83.10

### CIVIL PRO BONO PANEL

~~(Amended November 7, 2014)~~  
~~(Amended December \_\_, 2017)~~

#### (a) Assignment Wheel

1. The Clerk will establish a wheel to be used in assigning members of the Bar to provide pro bono representation to indigent persons in civil cases (the "Assignment Wheel").

~~Any duty imposed on or authority granted to the Clerk by this standing order may be delegated to Staff Counsel.~~

2. Any member of the Bar who has appeared as counsel of record in ~~more than~~ at least one civil action in this Court since January 1, ~~2006-2015~~, shall be included in the Assignment Wheel except for (1) ) an attorney whose principal place of business is outside the District; (2) an attorney who is employed full-time as an attorney for an agency of the United States, a State, or a municipality; (3) an attorney who is employed full-time as an attorney by a not-for-profit legal aid organization; (4) an attorney who has notified the Clerk's Office in writing that he or she has retired from the practice of law; and (5) an attorney who has notified the Clerk's office in writing that he or she has been suspended or resigned from the bar. Any such exempted attorney who has not retired, been suspended, or resigned shall be included in the pool, upon request, by notifying the Clerk's Office in writing of such request. is eligible for inclusion in the wheel.

~~The Clerk will send to each eligible attorney a registration form to enable the attorney to provide information for use by the Court in assigning pro bono counsel, including: (1) the seat(s) of court where the attorney is available to accept pro bono assignments; (2) any preference the attorney might have regarding certain types of cases (e.g., employment discrimination, prisoner civil rights, social security disability appeals); (3) the attorney's proficiency in languages other than English; and (4) conflicts of interest preventing representation adverse to governmental entities. The form will also give the attorney an opportunity to indicate that he or she wishes to opt out of the Court's pro bono program. Each attorney receiving a form must complete, sign and return the form to the Clerk within 21 days. Any attorney who fails to return the form will remain eligible for assignment of all case types in all seats of court.~~

3. The Clerk will review and update the Assignment Wheel on a biennial basis. The Clerk will add to the Assignment Wheel any non-exempt member of the Bar who files an appearance in a civil action in this Court within the prior two years and remove from the wheel any individual who has become exempt.

~~the completed forms for the purpose of creating an initial wheel comprised of all eligible attorneys who have not opted out. For each eligible attorney, the Clerk will maintain information~~

~~showing the attorney's name, the seat(s) of court where the attorney is available to accept pro bono assignments, the attorney's preferences (if any) with regard to case type, the attorney's proficiency in languages other than English, and conflicts preventing representation adverse to governmental entities. These names will then be randomly ordered to create the initial wheel. A new randomly ordered wheel will be generated at least once a year; the new wheel shall not include attorneys who previously have been appointed counsel under paragraph (b), below.~~

~~After the initial wheel is established, any member of the Bar who files a second appearance in a civil action in this Court will be eligible to be added to the wheel. The Clerk will send to each such attorney a registration form to be completed, signed and returned within 21 days.~~

**(b) Appointment Procedure—The Volunteer Wheel**

The Clerk will also establish a wheel of Pro Bono Volunteer Attorneys (the "Volunteer Wheel"), which shall be comprised of attorneys who are members of the Bar and who contact the Clerk's Office in writing to request to be included in the Volunteer Wheel. As set forth below, the Court will use the Volunteer Wheel to make pro bono appointments under this Rule before it uses the Assignment Wheel, and will resort to the Assignment Wheel only when no attorneys on the Volunteer Wheel are available. An attorney on the Volunteer Wheel will be considered available for appointments under this Rule as long as such attorney has filed appearances in no more than two pending cases under this Rule (i.e., cases in which counsel was appointed under this Rule and in which final judgment has not yet been entered). Any attorney who has been placed in the Volunteer Wheel may request in writing to be removed from that Wheel at any time, in which case the attorney shall be removed from the Volunteer Wheel but shall remain in the Assignment Wheel. The Court may remove an attorney from the Volunteer Wheel for good cause.

~~When the presiding judge in a civil case determines that pro bono counsel should be appointed to represent a person who cannot afford an attorney and who is proceeding in the case *pro se*, an order will issue directing the Clerk to appoint pro bono counsel from the assignment wheel.~~

~~On receiving such an order, the Clerk will select the next attorney in the assignment wheel who is suitable for appointment in the case in light of the information provided by the attorney in his or her registration form. The Clerk will immediately send notice of the appointment to the attorney, along with the *pro se* party's contact information, the pleadings, the case management order, any pending motions and any rulings on dispositive motions.~~

~~The attorney will have fourteen (14) days from the date of the Clerk's notice to decline the appointment. The Clerk may grant one or more written requests for extensions of time to decide whether to decline an appointment, totaling not more than 20 days beyond the initial fourteen (14)-day period set forth above.~~

~~An attorney may decline an appointment for any reason, but a reason must be provided in a written notice of declination provided to the Clerk. An attorney who declines an appointment remains in the assignment wheel.~~



~~If no timely notice of declination of appointment is provided to the Clerk, then an order appointing the attorney shall be issued by the Clerk, filed on the docket, and sent to the *pro se* party. An attorney appointed as counsel shall promptly file and serve an appearance in the action. The failure to file an appearance or to fulfill the duties of appointed counsel shall constitute grounds to enter an order sanctioning the appointed attorney.~~

### **(c) Appointment of Counsel**

~~1. Pro bono counsel will not be appointed unless the presiding judge first determines that the *pro se* party's claims or defenses satisfy the test of likely merit and that the *pro se* party has made good faith but unsuccessful efforts to obtain counsel. Newly filed cases in which the plaintiff is proceeding *pro se* will be evaluated by the presiding judge for appointment of pro bono counsel at an early stage. A status conference may be convened before the entry of a Rule 26(f) scheduling order to assist the presiding judge in making that evaluation.~~

1. Pro bono counsel may be appointed at the discretion of the presiding judge upon motion or on the initiative of the presiding judge when the judge determines that the appointment will serve the interests of justice based upon factors such as (a) a party's apparent ability or inability to afford legal counsel, (b) the likelihood that counsel may be secured under alternative fee arrangements, and (c) the apparent merit of the party's claims or defenses. Newly filed cases in which any party is unrepresented will be evaluated by the presiding judge for appointment of pro bono counsel at an early stage. A status conference may be convened before the entry of a Rule 26(f) scheduling order to assist the presiding judge in making that evaluation.

2. The presiding judge may appoint counsel for a specific limited purpose, such as for settlement purposes only, for the purpose of assisting with a particular pleading or proceeding, for the purpose of facilitating a limited investigation into the legal or factual basis for any claim or defense in order to evaluate the merit of a party's claims or defenses, or for any other limited purpose the Court finds would serve the interests of justice. The Court's order appointing counsel for limited purposes shall delineate the extent of counsel's responsibilities to the client and to the Court.

3. A limited-purpose appointment will be limited to the purpose identified in the order of appointment and will not extend to any other part of the litigation process. Only in the case of a limited purpose appointment, counsel may withdraw from the case by filing a notice of withdrawal upon fulfillment of the purpose for which appointed. The Clerk will then terminate counsel's receipt of ECF notifications related to the case.

4. Any attorney appointed for a limited purpose specified by the Court may apply at any time for an order appointing the attorney to represent the party for all purposes in the litigation in this Court.

5. The Court considers any attorney appointed under this Local Rule to be a volunteer on behalf of a governmental entity for purposes of the Volunteer Protection Act of 1997 (the "Protection Act"), 42 U.S.C. §§ 14501-05, as long as such attorney does not receive an award of compensation for services in excess of \$500 per year (other than reasonable reimbursement or allowance, approved by the Court under this Local Rule, for expenses actually incurred).

#### **(d) Appointment Procedure**

1. Upon determining that pro bono counsel should be appointed, the presiding judge will issue an order appointing as pro bono counsel the next attorney whose name is randomly generated by the Volunteer Wheel or, if no attorney from the Volunteer Wheel is available, the Assignment Wheel.

2. The order will be entered on the docket and the appointed attorney and all unrepresented parties and attorneys of record in the case will receive email notification of the appointment from the Court's electronic filing system. If any unrepresented party will not receive an email notification, the Clerk will cause notice of the order to be mailed. The order appointing the attorney shall indicate that it is made under this Local Rule.

#### **(e) Responsibilities of the Appointed Attorney**

1. Within 14 days of the entry of an order appointing counsel under this Rule, the appointed attorney shall file and serve an appearance in accordance with L. Civ. R. 5(b).

2. An~~The~~ appointed attorney shall promptly communicate with his or her client before appearing or as soon as practicable thereafter.

~~2. If the appointed attorney reasonably perceives the potential applicability of any of the grounds enumerated in this Rule, the attorney shall, before discussing the merits of the case with the client, advise the client of the provisions of this Rule. Where the attorney did not perceive such prior to discussing the merits of the case with the client, the attorney may request the client to execute a limited waiver of the attorney-client privilege permitting the attorney to disclose under seal to the Court information relevant to the applicability of the Rule. The waiver should indicate that the application for relief will be a privileged Court document and may not be used in the litigation. The client's refusal to execute a waiver shall not preclude the attorney from applying for relief.~~

~~3. The appointed attorney should discuss fully the merits of the dispute with the party, and explore with the party the possibilities of resolving the dispute in other forums, including but not limited to administrative forums.~~

~~4. If the party decides to prosecute or defend the action after consultation with the appointed attorney, the appointed attorney shall proceed to represent the party in the action, unless or until the attorney-client relationship is terminated as provided in this Rule.~~

53. Once appointed, the attorney shall freely exercise his or her professional judgment, but shall not be required. An appointed attorney shall provide an engagement letter to his or her client as soon as practicable following appointment. In addition to including any other language required by law, the engagement letter shall provide that the attorney may not charge for the representation but that, in consideration of the appointed attorney's legal services, the client agrees that this Court will have exclusive jurisdiction over any dispute arising from the representation, including, without limitation, a grievance or malpractice claim. The appointed

attorney shall explain the engagement letter to the client and the letter shall be signed by the attorney and the client. If the appointed attorney wishes to do so, he or she may file the engagement letter on the docket, together with a motion to seal, within 45 days of the entry of an order of appointment under this Rule.

4. By entering an appearance as required by the order of appointment, the appointed attorney incurs no obligation to represent the client in any other matter.

#### **(f) Duration of Representation**

1. Unless an order of limited appointment is made, an appointed attorney shall represent the party in this Court from the date of appointment until relieved from appointment by the Court or until a final judgment is entered in this Court.

2. If the party desires to take an appeal from a final judgment or appealable interlocutory order, or if such judgment or order is appealed by another party, or if the matter is remanded to an administrative forum, the appointed attorney is encouraged but not required to represent the party on the appeal, and in any proceeding, judicial or administrative, which may ensue upon an order of remand.

3. Where the appointed attorney elects not to represent the party on an appeal or in a proceeding upon remand, the attorney shall advise the party of all required steps to be taken in perfecting the appeal or appearing in the proceeding on remand. Upon request of the self-represented party the attorney shall file the notice of appeal.

#### **(d)(g) Relief From Appointments**

Motions for relief from appointment are disfavored, as the Court views the acceptance of pro bono assignments from time to time as a professional responsibility of the attorneys who are members of its Bar. Any such motion shall comply with Rule 6.2 of the Connecticut Rules of Professional Conduct and Local Rule 7(e). Relief from appointment is unlikely to be granted on the grounds that the appointment would be burdensome or interfere with counsel's other professional obligations where the Court can fashion a case schedule that reasonably mitigates such difficulties. Relief from appointment is also unlikely to be granted on the ground that counsel lacks experience in the area of law involved in the case. In the Court's experience, even an attorney who is inexperienced or unfamiliar with the subject matter can provide valuable assistance to an unrepresented person. If an attorney is currently engaged in, or has in the previous 12 months completed, a pro bono representation under this rule or a case in this Court in which the attorney was appointed under the Criminal Justice Act, 18 U.S.C. Sec. 3006A, and does not wish to accept a new pro bono assignment, that attorney may file, within 14 days of the entry of the order appointing counsel, a notice so indicating and specifying the docket number of the case in which he or she was appointed. Upon the filing of such a notice, the Court will vacate the order of appointment and will appoint a new attorney from the assignment wheel.

~~1. — A request for relief from appointment will not be considered unless the party has received specific notice of such request by personal service or by certified mail. Absent an appearance of new counsel, an appointed attorney may apply to be relieved of an appointment only on the following grounds: (i) a conflict of interest results from the representation of the party; (ii) the attorney believes that he or she is not competent to represent the party in the particular type of action assigned; (iii) a personal incompatibility or a substantial disagreement on litigation strategy exists between the attorney and the party; (iv) the attorney lacks the time necessary to represent the client because of the temporary burden of other professional commitments; (v) the party appears to be proceeding for purposes of harassment or malicious injury, or the party's claims or defenses are not warranted under existing law and cannot be supported by good faith argument for extension, modification or reversal of existing law; or (vi) for other good cause shown.~~

~~2. — If an application for relief from an appointment is granted, another attorney may be ordered to represent the party. The Judge shall have the discretion to deny a further appointment, in which case the party may prosecute or defend the action *pro se*.~~

~~3. — Whenever an attorney seeks to be relieved of an order of appointment on any of the grounds set forth above, he or she shall file an application for relief with the Clerk within a reasonable period of time not to exceed thirty (30) days after learning of the facts warranting such relief. The application shall set forth in full the factual and legal basis for the request. The application shall be a privileged Court document kept under seal and shall not be available in discovery or otherwise used in the litigation. The attorney appointed shall thereupon be relieved of the order of appointment upon showing any of the grounds set forth above. The Clerk shall then, without revealing the contents of the application to the Judge, forthwith select another attorney to represent the party in accordance with the provisions of this Rule, unless the Judge determines not to order another appointment pursuant to paragraph (d)2 above.~~

~~4. — An attorney selected pursuant to Rule 83.10(d)3 may seek to be relieved from appointment on any of the grounds in subparagraph (d)1(v) of this Rule 83.10 by filing an application therefor. The Clerk shall thereupon submit the application for relief of the first and any subsequent appointed attorneys to the assigned Judge. The Judge shall either (i) deny the application of the subsequent attorney and direct that attorney to proceed with the representation or (ii) grant the application. In the latter instance, the Judge may choose not to issue a further order of appointment. If so, the Clerk shall inform the party that no further appointments shall be made and upon request of the *pro se* party the Judge shall recuse himself or herself.~~

### **(h) Additional Appointments**

Upon request for good cause shown, the Court may (a) limit the purpose(s) of an appointment and appoint an additional attorney from another firm to serve in a different limited capacity (e.g., sequentially) or (b) appoint an additional attorney from another firm to serve as co-counsel. Nothing in this Local Rule should be construed to prevent an appointed attorney

from soliciting another attorney from the same or another firm to appear as co-counsel, except that neither appointed counsel nor co-counsel may limit the purpose of the representation without approval by the Court.

**(i) Discharge**

A party for whom an attorney has been appointed may request the discharge of the appointed attorney and appointment of another attorney. Such requests must be made within thirty (30) days after the party's initial consultation with the appointed attorney, or within such additional period as is warranted by good cause.

When good cause is shown (e.g., substantial disagreement between the party and the appointed attorney on litigation strategy), the appointed attorney shall be discharged from further representation of the party. In such cases, another attorney may thereupon be selected appointed by the Clerk-Court to undertake the representation, in accordance with this Rule. The Judge may deny a further appointment in such cases. ~~Where a party requests discharge of a second appointed attorney, no additional appointments shall be made.~~

**(j) Complaints or Grievances Against Appointed Counsel**

1. Should ~~Where (i) a request for discharge party who is not supported~~ represented by good cause, or (ii) discharge of a second counsel appointed attorney is requested, the party may prosecute or defend under this Rule wish to file a complaint or grievance against appointed counsel for any failure of counsel to comply with his or her professional obligations, including any applicable standard of care or rule of professional conduct, during the representation in this Court, such complaint or grievance shall be filed in this Court within thirty days of the action ~~pro se~~. In either the termination of the representation, and shall be served by first-class mail on the appointed attorney. This period may be extended, up to six months from the termination of the representation, by a showing that the party could not have, through the exercise of reasonable diligence, been expected to learn the facts from which the complaint or grievance arises during the representation or within thirty days of its termination. Failure to comply with the time limits set forth in this paragraph shall constitute a waiver of the right to bring a complaint or grievance under this Rule.

2. Any such complaint or grievance shall be filed in the original case, the appointed in which counsel was appointed, together with a motion to reopen the case, if it has been closed. Unless and until the Court orders otherwise, the complaint, and the fact of filing the complaint, shall be considered sealed and shall not be a record open to the public. The docket will reflect only the filing of a sealed document and a sealed motion.

3. The attorney shall be discharged from the representation against whom such complaint or grievance is filed is not required to respond to such complaint or grievance until after the presiding judge has reviewed it and made a determination that a response is required. .

4. The judge will dismiss the complaint or grievance, in whole or in part, without requiring a response if the facts alleged, if accepted as true, fail to state a cognizable claim. In making this evaluation, the judge will consider (a) the Protection Act, (b) the standard of care expected of an

appointed lawyer, (c) the rules of professional conduct for lawyers practicing in the District of Connecticut under L. Civ. R. 83.2(a), and (d) the interests of justice. The judge may also dismiss the complaint or grievance in whole or in part without requiring a response if the judge's own recollection of the earlier proceedings contradicts material facts alleged in the complaint or grievance.

5. If the judge determines that the complaint or grievance warrants a response, the judge will order a response to be made. The judge may thereafter proceed to adjudicate the claim, direct that it be assigned to another judge of this Court, or refer the matter to the Grievance Committee.

6. The Clerk of Court shall ensure that every judgment entered in a case in which an attorney is appointed under this Local Rule, including cases that are settled or withdrawn, includes the following language: Because counsel was appointed in this case under Local Civil Rule 83.10, this Court shall retain jurisdiction to adjudicate any dispute between such counsel and his or her client arising from the representation in this case, including without limitation, a grievance or malpractice claim.

#### **~~(f)~~(k) Expenses**

1. The appointed attorney shall bear any expenses of the litigation (e.g., discovery expenses, expert witness fees, subpoena fees, transcript expenses), unless the attorney has, prior to incurring any such expenses, obtained an order from the Court authorizing such expense. Failure to obtain such an order will not bar the appointed attorney from seeking reimbursement pursuant to Rule 83.10~~(g)1 and 3-(l)~~. Nothing in this Local Rule will be construed to prevent an attorney from reaching agreement with the client for the client to pay an expense. An appointed attorney will have no obligation to bear any litigation expense that the Court has refused to authorize after appropriate application and the client is unable or unwilling to pay, even if the failure to pay that expense will cause the client to be unable to meet a burden of proof with respect to a claim or defense.

2. Upon appropriate application by the appointed attorney the Clerk shall certify those expenses for which the appointed attorney may be reimbursed, in accordance with the procedures utilized in *in forma pauperis* proceedings, in proceedings under the Criminal Justice Act or other guidelines issued by the Court. Thereafter, the ~~presiding judge~~assigned Judge may order reimbursement of the expenses of the litigation, as authorized by applicable statute, regulation, rule or other provision of law.

#### **~~(e) Compensation for Services~~**

~~1. If the action is one for which compensation for legal services, costs and/or expenses may become available to the appointed attorney by statute, the Clerk shall so inform the *pro se* party at the time of the application for appointed counsel and at the time the appointment is made. The Clerk shall also then inform the party that any statutory fee may be awarded only by the Judge at the conclusion of the case.~~

~~2. Pro se litigants in Social Security disability cases shall be specifically advised by the Clerk that a statutory attorney's fee may be awarded to be paid from the award, if any, of retroactive disability benefits.~~

~~3. Upon appropriate application by the appointed attorney, the Judge may award attorney's fees, costs and/or expenses to the appointed attorney for services rendered in the action, as authorized by applicable statute, regulation, rule or other provision of law, and as the Judge deems just and proper. In deciding whether to award attorney's fees the Judge shall consider: (i) the relevant statutes and provisions of law; (ii) the source of the fee award; (iii) the services rendered; and (iv) any other factors he or she deems appropriate.~~

~~4. If the party is able to pay for legal services, upon application of the appointed attorney, the Judge may thereupon (i) approve a fee arrangement between the party and the attorney, (ii) order a fee to be paid on a specified basis, or (iii) relieve the attorney from the responsibilities of the appointment and permit the party to retain another attorney or to proceed pro se.~~

~~5.~~3. A fund shall be kept by the Clerk for the purpose of funding expenses that a party is unable to meet, in whole or in part. This fund shall consist of a portion of the fees collected in connection with applications for admission to the Bar of this Court and motions for admission *pro hac vice*. The presiding judge shall review all applications of appointed attorneys for advance approval of part or all of a litigation expense and decide whether to authorize the expense and provide for payment from the fund. If the party is subsequently reimbursed for or recovers an expense that had been funded in whole or in part from the Clerk's fund (excluding unallocated settlement payments and damages awards), the party ~~shall~~will ordinarily be required to reimburse the fund.

### **(I) Compensation for Services**

1. Upon appropriate application by the appointed attorney, the presiding judge may award to the appointed attorney attorney's fees, costs and/or expenses, as authorized by applicable statute, regulation, rule or other provision of law, and as the presiding judge deems just and proper. In deciding whether to award attorney's fees, the presiding judge will consider: (i) the relevant statutes and provisions of law; (ii) the source of the fee award; (iii) the services rendered; (iv) the out-of-pocket costs incurred by the attorney, and (v) any other factors the presiding judge deems appropriate.

2. If the party is able to pay for legal services, upon application of the appointed attorney, the presiding judge may (i) approve a fee arrangement between the party and the attorney, (ii) order fees and expenses to be paid on a specified basis, or (iii) relieve the attorney from the responsibilities of the appointment and permit the party to retain another attorney or proceed without counsel.

3. Nothing in this Local Rule will be construed to prohibit an attorney appointed from the Assignment Wheel from reaching a prospective fee agreement with the client, which may include contingent fees or the right to receive any fee award and which shall comply with state

law. Any such agreement shall be submitted for approval to the Court, and may be submitted together with a motion to seal. An appointed attorney may not condition service to the client on the client's willingness to enter into such an agreement, except as provided in section (l)(2) of this Local Rule. Appointed attorneys are on notice that acceptance of in excess of \$500 per year for performing services under this rule may affect their status as a "volunteer" under the Volunteer Protection Act of 1997. 42 U.S.C. § 14505(6).

**~~(f) Duration of Representation~~**

~~1. An appointed attorney shall represent the party in the trial Court from the date he or she enters an appearance until he or she has been relieved from appointment by the Court or until a final judgment is entered in the District Court.~~

~~2. If the party desires to take an appeal from a final judgment or appealable interlocutory order, or if such judgment or order is appealed by another party, or if the matter is remanded to an administrative forum, the appointed attorney is encouraged but not required to represent the party on the appeal, and in any proceeding, judicial or administrative, which may ensue upon an order of remand.~~

~~3. Where the appointed attorney elects not to represent the party on an appeal or in a proceeding upon remand, the attorney shall advise the party of all required steps to be taken in perfecting the appeal or appearing in the proceeding on remand. Upon request of the *pro se* party the attorney shall file the notice of appeal. The trial Judge may thereafter, upon the request of the party, appoint another attorney from the Panel to represent the party on such appeal or further proceeding, in accordance with the provisions of this Rule.~~



## **RULE 83.10**

### **CIVIL PRO BONO PANEL**

(Amended December \_\_, 2017)

#### **(a) Assignment Wheel**

1. The Clerk will establish a wheel to be used in assigning members of the Bar to provide pro bono representation to indigent persons in civil cases (the "Assignment Wheel").

2. Any member of the Bar who has appeared as counsel of record in at least one civil action in this Court since January 1, 2015, shall be included in the Assignment Wheel except for (1) an attorney whose principal place of business is outside the District; (2) an attorney who is employed full-time as an attorney for an agency of the United States, a State, or a municipality; (3) an attorney who is employed full-time as an attorney by a not-for-profit legal aid organization; (4) an attorney who has notified the Clerk's Office in writing that he or she has retired from the practice of law; and (5) an attorney who has notified the Clerk's office in writing that he or she has been suspended or resigned from the bar. Any such exempted attorney who has not retired, been suspended, or resigned shall be included in the pool, upon request, by notifying the Clerk's Office in writing of such request.

3. The Clerk will review and update the Assignment Wheel on a biennial basis. The Clerk will add to the Assignment Wheel any non-exempt member of the Bar who files an appearance in a civil action in this Court within the prior two years and remove from the wheel any individual who has become exempt.

#### **(b) The Volunteer Wheel**

The Clerk will also establish a wheel of Pro Bono Volunteer Attorneys (the "Volunteer Wheel"), which shall be comprised of attorneys who are members of the Bar and who contact the Clerk's Office in writing to request to be included in the Volunteer Wheel. As set forth below, the Court will use the Volunteer Wheel to make pro bono appointments under this Rule before it uses the Assignment Wheel, and will resort to the Assignment Wheel only when no attorneys on the Volunteer Wheel are available. An attorney on the Volunteer Wheel will be considered available for appointments under this Rule as long as such attorney has filed appearances in no more than two pending cases under this Rule (i.e., cases in which counsel was appointed under this Rule and in which final judgment has not yet been entered). Any attorney who has been placed in the Volunteer Wheel may request in writing to be removed from that Wheel at any time, in which case the attorney shall be removed from the Volunteer Wheel but shall remain in the Assignment Wheel. The Court may remove an attorney from the Volunteer Wheel for good cause.

### **(c) Appointment of Counsel**

1. Pro bono counsel may be appointed at the discretion of the presiding judge upon motion or on the initiative of the presiding judge when the judge determines that the appointment will serve the interests of justice based upon factors such as (a) a party's apparent ability or inability to afford legal counsel, (b) the likelihood that counsel may be secured under alternative fee arrangements, and (c) the apparent merit of the party's claims or defenses. Newly filed cases in which any party is unrepresented will be evaluated by the presiding judge for appointment of pro bono counsel at an early stage. A status conference may be convened before the entry of a Rule 26(f) scheduling order to assist the presiding judge in making that evaluation.

2. The presiding judge may appoint counsel for a specific limited purpose, such as for settlement purposes only, for the purpose of assisting with a particular pleading or proceeding, for the purpose of facilitating a limited investigation into the legal or factual basis for any claim or defense in order to evaluate the merit of a party's claims or defenses, or for any other limited purpose the Court finds would serve the interests of justice. The Court's order appointing counsel for limited purposes shall delineate the extent of counsel's responsibilities to the client and to the Court.

3. A limited-purpose appointment will be limited to the purpose identified in the order of appointment and will not extend to any other part of the litigation process. Only in the case of a limited purpose appointment, counsel may withdraw from the case by filing a notice of withdrawal upon fulfillment of the purpose for which appointed. The Clerk will then terminate counsel's receipt of ECF notifications related to the case.

4. Any attorney appointed for a limited purpose specified by the Court may apply at any time for an order appointing the attorney to represent the party for all purposes in the litigation in this Court.

5. The Court considers any attorney appointed under this Local Rule to be a volunteer on behalf of a governmental entity for purposes of the Volunteer Protection Act of 1997 (the "Protection Act"), 42 U.S.C. §§ 14501-05, as long as such attorney does not receive an award of compensation for services in excess of \$500 per year (other than reasonable reimbursement or allowance, approved by the Court under this Local Rule, for expenses actually incurred).

### **(d) Appointment Procedure**

1. Upon determining that pro bono counsel should be appointed, the presiding judge will issue an order appointing as pro bono counsel the next attorney whose name is randomly generated by the Volunteer Wheel or, if no attorney from the Volunteer Wheel is available, the Assignment Wheel.

2. The order will be entered on the docket and the appointed attorney and all unrepresented parties and attorneys of record in the case will receive email notification of the appointment from the Court's electronic filing system. If any unrepresented party will not

receive an email notification, the Clerk will cause notice of the order to be mailed. The order appointing the attorney shall indicate that it is made under this Local Rule.

**(e) Responsibilities of the Appointed Attorney**

1. Within 14 days of the entry of an order appointing counsel under this Rule, the appointed attorney shall file and serve an appearance in accordance with L. Civ. R. 5(b).

2. An appointed attorney shall communicate with his or her client before appearing or as soon as practicable thereafter

3. An appointed attorney shall provide an engagement letter to his or her client as soon as practicable following appointment. In addition to including any other language required by law, the engagement letter shall provide that the attorney may not charge for the representation but that, in consideration of the appointed attorney's legal services, the client agrees that this Court will have exclusive jurisdiction over any dispute arising from the representation, including, without limitation, a grievance or malpractice claim. The appointed attorney shall explain the engagement letter to the client and the letter shall be signed by the attorney and the client. If the appointed attorney wishes to do so, he or she may file the engagement letter on the docket, together with a motion to seal, within 45 days of the entry of an order of appointment under this Rule.

4. By entering an appearance as required by the order of appointment, the appointed attorney incurs no obligation to represent the client in any other matter.

**(f) Duration of Representation**

1. Unless an order of limited appointment is made, an appointed attorney shall represent the party in this Court from the date of appointment until relieved from appointment by the Court or until a final judgment is entered in this Court.

2. If the party desires to take an appeal from a final judgment or appealable interlocutory order, or if such judgment or order is appealed by another party, or if the matter is remanded to an administrative forum, the appointed attorney is encouraged but not required to represent the party on the appeal, and in any proceeding, judicial or administrative, which may ensue upon an order of remand.

3. Where the appointed attorney elects not to represent the party on an appeal or in a proceeding upon remand, the attorney shall advise the party of all required steps to be taken in perfecting the appeal or appearing in the proceeding on remand. Upon request of the self-represented party the attorney shall file the notice of appeal.

**(g) Relief From Appointments**

Motions for relief from appointment are disfavored, as the Court views the acceptance of pro bono assignments from time to time as a professional responsibility of the attorneys who are members of its Bar. Any such motion shall comply with Rule 6.2 of the Connecticut Rules of

Professional Conduct and Local Rule 7(e). Relief from appointment is unlikely to be granted on the grounds that the appointment would be burdensome or interfere with counsel's other professional obligations where the Court can fashion a case schedule that reasonably mitigates such difficulties. Relief from appointment is also unlikely to be granted on the ground that counsel lacks experience in the area of law involved in the case. In the Court's experience, even an attorney who is inexperienced or unfamiliar with the subject matter can provide valuable assistance to an unrepresented person. If an attorney is currently engaged in, or has in the previous 12 months completed, a pro bono representation under this rule or a case in this Court in which the attorney was appointed under the Criminal Justice Act, 18 U.S.C. Sec. 3006A, and does not wish to accept a new pro bono assignment, that attorney may file, within 14 days of the entry of the order appointing counsel, a notice so indicating and specifying the docket number of the case in which he or she was appointed. Upon the filing of such a notice, the Court will vacate the order of appointment and will appoint a new attorney from the assignment wheel.

#### **(h) Additional Appointments**

Upon request for good cause shown, the Court may (a) limit the purpose(s) of an appointment and appoint an additional attorney from another firm to serve in a different limited capacity (e.g., sequentially) or (b) appoint an additional attorney from another firm to serve as co-counsel. Nothing in this Local Rule should be construed to prevent an appointed attorney from soliciting another attorney from the same or another firm to appear as co-counsel, except that neither appointed counsel nor co-counsel may limit the purpose of the representation without approval by the Court.

#### **(i) Discharge**

A party for whom an attorney has been appointed may request the discharge of the appointed attorney and appointment of another attorney. Such requests must be made within thirty (30) days after the party's initial consultation with the appointed attorney, or within such additional period as is warranted by good cause.

When good cause is shown (e.g., substantial disagreement between the party and the appointed attorney on litigation strategy), the appointed attorney shall be discharged from further representation of the party. In such cases, another attorney may thereupon be appointed by the Court to undertake the representation, in accordance with this rule. The Judge may deny a further appointment in such cases.

#### **(j) Complaints or Grievances Against Appointed Counsel**

1. Should a party who is represented by counsel appointed under this Rule wish to file a complaint or grievance against appointed counsel for any failure of counsel to comply with his or her professional obligations, including any applicable standard of care or rule of professional conduct, during the representation in this Court, such complaint or grievance shall be filed in this Court within thirty days of the termination of the representation, and shall be served by first-class mail on the appointed attorney. This period may be extended, up to six months from the termination of the representation, by a showing that the party could not have, through the

exercise of reasonable diligence, been expected to learn the facts from which the complaint or grievance arises during the representation or within thirty days of its termination. Failure to comply with the time limits set forth in this paragraph shall constitute a waiver of the right to bring a complaint or grievance under this Rule.

2. Any such complaint or grievance shall be filed in the original case, in which counsel was appointed, together with a motion to reopen the case, if it has been closed. Unless and until the Court orders otherwise, the complaint, and the fact of filing the complaint, shall be considered sealed and shall not be a record open to the public. The docket will reflect only the filing of a sealed document and a sealed motion.

3. The attorney against whom such complaint or grievance is filed is not required to respond to such complaint or grievance until after the presiding judge has reviewed it and made a determination that a response is required.

4. The judge will dismiss the complaint or grievance, in whole or in part, without requiring a response if the facts alleged, if accepted as true, fail to state a cognizable claim. In making this evaluation, the judge will consider (a) the Protection Act, (b) the standard of care expected of an appointed lawyer, (c) the rules of professional conduct for lawyers practicing in the District of Connecticut under L. Civ. R. 83.2(a), and (d) the interests of justice. The judge may also dismiss the complaint or grievance in whole or in part without requiring a response if the judge's own recollection of the earlier proceedings contradicts material facts alleged in the complaint or grievance.

5. If the judge determines that the complaint or grievance warrants a response, the judge will order a response to be made. The judge may thereafter proceed to adjudicate the claim, direct that it be assigned to another judge of this Court, or refer the matter to the Grievance Committee.

6. The Clerk of Court shall ensure that every judgment entered in a case in which an attorney is appointed under this Local Rule, including cases that are settled or withdrawn, includes the following language: Because counsel was appointed in this case under Local Civil Rule 83.10, this Court shall retain jurisdiction to adjudicate any dispute between such counsel and his or her client arising from the representation in this case, including without limitation, a grievance or malpractice claim.

### **(k) Expenses**

1. The appointed attorney shall bear any expenses of the litigation (e.g., discovery expenses, expert witness fees, subpoena fees, transcript expenses), unless the attorney has, prior to incurring any such expense, obtained an order from the Court authorizing such expense. Failure to obtain such an order will not bar the appointed attorney from seeking reimbursement pursuant to Rule 83.10(l). Nothing in this Local Rule will be construed to prevent an attorney from reaching agreement with the client for the client to pay an expense. An appointed attorney will have no obligation to bear any litigation expense that the Court has refused to authorize after appropriate application and the client is unable or unwilling to pay, even if the failure to pay

that expense will cause the client to be unable to meet a burden of proof with respect to a claim or defense.

2. Upon appropriate application by the appointed attorney the Clerk shall certify those expenses for which the appointed attorney may be reimbursed, in accordance with the procedures utilized in *in forma pauperis* proceedings, in proceedings under the Criminal Justice Act or other guidelines issued by the Court. Thereafter, the presiding judge may order reimbursement of the expenses of the litigation, as authorized by applicable statute, regulation, rule or other provision of law.

3. A fund shall be kept by the Clerk for the purpose of funding expenses that a party is unable to meet, in whole or in part. This fund shall consist of a portion of the fees collected in connection with applications for admission to the Bar of this Court and motions for admission *pro hac vice*. The presiding judge shall review all applications of appointed attorneys for advance approval of part or all of a litigation expense and decide whether to authorize the expense and provide for payment from the fund. If the party is subsequently reimbursed for or recovers an expense that had been funded in whole or in part from the Clerk's fund (excluding unallocated settlement payments and damages awards), the party will ordinarily be required to reimburse the fund.

### **(I) Compensation for Services**

1. Upon appropriate application by the appointed attorney, the presiding judge may award to the appointed attorney attorney's fees, costs and/or expenses, as authorized by applicable statute, regulation, rule or other provision of law, and as the presiding judge deems just and proper. In deciding whether to award attorney's fees, the presiding judge will consider: (i) the relevant statutes and provisions of law; (ii) the source of the fee award; (iii) the services rendered; (iv) the out-of-pocket costs incurred by the attorney, and (v) any other factors the presiding judge deems appropriate.

2. If the party is able to pay for legal services, upon application of the appointed attorney, the presiding judge may (i) approve a fee arrangement between the party and the attorney, (ii) order fees and expenses to be paid on a specified basis, or (iii) relieve the attorney from the responsibilities of the appointment and permit the party to retain another attorney or proceed without counsel.

3. Nothing in this Local Rule will be construed to prohibit an attorney appointed from the Assignment Wheel from reaching a prospective fee agreement with the client, which may include contingent fees or the right to receive any fee award and which shall comply with state law. Any such agreement shall be submitted for approval to the Court, and may be submitted together with a motion to seal. An appointed attorney may not condition service to the client on the client's willingness to enter into such an agreement, except as provided in section (I)(2) of this Local Rule. Appointed attorneys are on notice that acceptance of in excess of \$500 per year for performing services under this rule may affect their status as a "volunteer" under the Volunteer Protection Act of 1997. 42 U.S.C. § 14505(6).

## **RULE 83.12**

### **AUXILIARY ORDERS**

(Amended December \_\_, 2017)

Orders entered by the Court which affect the procedures or policies of practice before the Court but which do not amend or take the form of a Local Rule, shall be designated as Auxiliary Orders, ~~and~~ shall be available in the Clerk's Office, and shall be posted on the Court's website.

## FORM 26(F) REPORT OF PARTIES' PLANNING MEETING

Caption of Case  
[List all parties]

Date Complaint Filed:

Date Complaint Served:

Date of Defendant's Appearance:

Pursuant to Fed. R. Civ. P. 16(b), 26(f) and D. Conn. L. Civ. R. 16, a conference was held on [date(s)]. The participants were:

\_\_\_\_\_ for plaintiff [party name]

\_\_\_\_\_ for defendant [party name]

### I. Certification

Undersigned counsel ~~certify that, (~~after consultation with their clients) and any undersigned self-represented parties certify that (a) they have discussed the nature and basis of the parties' claims and defenses and any possibilities for achieving a prompt settlement or other resolution of the case ~~and, in consultation with their clients,;~~ and (b) they have developed the following proposed case management plan. Counsel further certify that they have forwarded a copy of this report to their clients.

### II. Jurisdiction

#### A. Subject matter Jurisdiction

[Provide a statement of the basis for subject matter jurisdiction with appropriate statutory citations. If defendant denies plaintiff's allegation of subject matter jurisdiction ~~is denied~~, defendant must specify the basis for the denial. In cases where the basis for subject matter jurisdiction is diversity of citizenship, if any party is a partnership, limited liability partnership, or limited liability company or corporation, provide the citizenship of each partner, general partner, limited partner and /or member, and if any such partner, general partner, limited partner or



member is itself a partnership, limited liability partnership, or limited liability company or corporation, provide the citizenship of each partner and/or member.]

#### B. Personal Jurisdiction

[State whether personal jurisdiction is contested and, if it is, summarize the parties' competing positions].

#### III. Brief Description of Case

[Briefly summarize the claims and defenses of all parties and describe the relief sought. If the parties cannot reach agreement ~~cannot be reached~~ on a joint statement, each party must provide a short separate statement. The requirement that the parties briefly summarize their claims and defenses is not intended to be unduly burdensome. The parties are obliged to discuss and consider the nature of their claims and defenses at the planning conference in order to formulate a meaningful case management plan. Moreover, the presiding judge needs to be informed of the nature of the claims and defenses in order to evaluate the reasonableness of the parties' that proposed plan. The statement of the parties' claims and defenses, whether set forth jointly or separately, does not preclude any party from raising new claims and defenses as permitted by other applicable law.]

##### A. Claims of Plaintiff/s:

B. Defenses and Claims (Affirmative Defenses, Counterclaims, Third Party Claims, Cross Claims) (either pled or anticipated) of Defendant/s:

##### C. Defenses and Claims of Third Party Defendant/s: ~~Statement of Undisputed Facts:~~

#### IV. Statement of Undisputed Facts

[The Court expects that in most cases there will be facts that are not genuinely disputed, and urges counsel and self-represented parties to assist the Court in identifying such facts, as part of their obligation to promote the "just, speedy and inexpensive determination of every action."] Counsel and self-represented parties certify that they have made a good faith attempt

to determine whether there are any material facts that are not in dispute. The ~~parties state that~~  
~~the~~ following material facts are undisputed:

V. Case Management Plan:

A. Initial Disclosures

Initial disclosures will be served by \_\_\_\_\_.

~~Standing Order on B.~~ Scheduling in Civil Cases Conference

1. \_\_\_\_\_ The parties [request] [do not request] ~~modification of the deadlines in the~~  
~~Standing Order on Scheduling in Civil Cases [as follows]:~~

~~Scheduling Conference with the Court~~

~~The parties [request] [do not request] to be excused from holding~~ a pretrial conference  
with the Court before entry of a scheduling order pursuant to Fed. R. Civ. P. 16(b).

2. \_\_\_\_\_ The parties prefer that a scheduling conference, if held, be conducted [in person]  
[by telephone].

C. Early Settlement Conference

1. The parties certify that they have considered the ~~desirability~~ potential benefits of  
attempting to settle the case before undertaking significant discovery or motion practice.  
Settlement [is likely] [is unlikely at this time] [may be ~~enhanced~~ facilitated by use of the following  
procedure]: \_\_\_\_\_.

2. The parties [request] [do not request] an early settlement conference.

3. The parties prefer a settlement conference, when such a conference is held, with  
[the presiding judge] [a magistrate judge] [a parajudicial officer] ~~or~~ special masters].

4. The parties [request] [do not request] a referral for alternative dispute resolution  
pursuant to D. Conn. L. Civ. R. 16.

D. Joinder of Parties, ~~and~~ Amendment of Pleadings, and Motions Addressed to the  
Pleadings

The parties have discussed any perceived defects in the pleadings and have reached the following agreements for resolution of any issues related to the sufficiency of the pleadings.

1. Plaintiff(s) should be allowed until [date] to file motions to join additional parties and until [date] to file motions to amend the pleadings. Motions filed after the foregoing dates will require, in addition to any other requirements under the applicable rules; a showing of good cause for the delay.

2. Defendant(s) should be allowed until [date] to file motions to join additional parties and until [date] to file a response to the complaint, or any amended complaint. Motions filed after the foregoing dates will require, in addition to any other requirements under the applicable rules, a showing of good cause' for the delay.

A.B. Discovery

a. Recognizing that the precise contours of the case, including the amounts of damages at issue, if any, may not be clear at this point in the case, in making the proposals below concerning discovery, the parties have considered the scope of discovery permitted under Fed. R. Civ. P. 26(b)(1). At this time, the parties wish to apprise the Court of the following information regarding the "needs of the case" :

Plaintiff's Position:

Defendant's Position (if different):

b. The parties anticipate that discovery will be needed on the following subjects: [list each of the principal issues of fact on which discovery will be needed; a statement that, e.g., "discovery will be needed on liability and damages" is insufficient].

c. All discovery, including depositions of expert witnesses pursuant to Fed. R. Civ. P. 26(b)(4), will be commenced by [date] and completed (not propounded) by [date].

e.d Discovery [will] [will not] be conducted in phases.

~~de.~~ If discovery will be conducted in phases, describe each phase and state the date by which it Discovery on \_\_\_\_\_ will be completed by ~~[date]~~.

ef. The parties anticipate that the plaintiff(s) will require a total of \_\_\_\_ depositions of fact witnesses and that the defendant(s) will require a total of \_\_\_\_ depositions of fact witnesses. The depositions will commence by [date] and be completed by [date].

fg. The parties [will] [will not] request permission to serve more than 25 interrogatories.

gh. Plaintiff/s [intend] [do not intend] to call expert witnesses at trial. Defendant/s [intend] [do not intend] to call expert witnesses at trial.

i. Parties ~~Plaintiff/s~~ will designate all trial experts and provide opposing counsel with reports from retained experts pursuant to Fed. R. Civ. P. 26(a)(2) on any issues on which they bear the burden of proof by [a date not later than 3 months before the deadline for completing all discovery]. Depositions of any such experts will be completed by [a date not later than 2 months before the deadline for completing all discovery].

hj. ~~Defendant/s [intend] [do not intend] to call expert witnesses at trial.~~ Defendant/s Parties will designate all trial experts and provide opposing counsel with reports from retained experts pursuant to Fed. R. Civ. P. 26(a)(2) on any issues on which they do not bear the burden of proof by [a date not later than 1 month before the deadline for completing all discovery]. Depositions of such experts will be completed by [a date not later than the discovery cutoff date].

ik. A damages analysis will be provided by any party who has a claim or counterclaim for damages by [date].

j-l. Undersigned counsel (after consultation with their respective clients concerning computer-based and other electronic information management systems, including historical,

archival, back-up and legacy files, in order to understand how information is stored and how it may be retrieved) and self-represented parties have discussed the disclosure and preservation of electronically stored information, including, but not limited to, the form in which such data shall be produced, search terms and/or other techniques to be ~~applied~~used in connection with the retrieval and production of such information, the location and format of electronically stored information, appropriate steps to preserve electronically stored information, and the allocation of costs of assembling and producing such information. [The parties agree to the following procedures for the preservation, disclosure and management of electronically stored information ~~or~~[OR] the parties have been unable to reach agreement on the procedures for the preservation, disclosure and management of electronically stored information. Following is the position of each party:] **[SPECIFY]**.

m. Undersigned counsel (after consultation with their clients) and self-represented parties have also discussed the location(s), volume, organization, and costs of retrieval of information stored in paper or other non-electronic forms. The parties agree to the following procedures for the preservation, disclosure and management of such information [OR: The parties have been unable to reach agreement on the procedures for the preservation, disclosure and management of such information. Following is the position of each party]: [SPECIFY].

~~kn-~~ Undersigned counsel and self-represented parties have discussed discovery procedures that minimize the risk of waiver of privilege or work-product protection, including procedures for asserting privilege claims after production. [The parties agree to the following procedures for asserting claims of privilege after production ~~or~~[OR] ~~the~~ the parties have been unable to reach agreement on the procedures for asserting claims of privilege after production. Following is the position of each party: **[SPECIFY]**.

### C. Other Scheduling Issues

The parties propose the following schedule for addressing other issues pertinent to this case [e.g., class certification, claim construction]:

~~B-D.~~ Dispositive Summary Judgment Motions:

Dispositive Summary judgment motions, which must comply with Local Rule 56, will be filed on or before [date].

~~C-E.~~ Joint Trial Memorandum

The joint trial memorandum required by the Standing Order on Trial Memoranda in Civil Cases will be filed by [date].

#### VI. TRIAL READINESS

The case will be ready for trial by [date].

As officers of the Court, undersigned counsel agree to cooperate with each other and the Court to promote the just, speedy and inexpensive determination of this action.

Plaintiff

By \_\_\_\_\_ Date: \_\_\_\_\_

Defendant

By \_\_\_\_\_ Date: \_\_\_\_\_

The undersigned ~~pro se self-represented~~ parties certify that they will cooperate with all other parties, counsel ~~of record~~ and the Court to promote the just, speedy and inexpensive determination of this action.

Plaintiff \_\_\_\_\_ Date: \_\_\_\_\_

Defendant \_\_\_\_\_ Date: \_\_\_\_\_